HOUSE OF REPRESENTATIVES—*Monday, October 3, 1988*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we view our lives with their successes and failures, we know the circumstances in us and about us that contribute to the highs and lows of life. Remind us, O God, that at the great moments of life, those points of crisis or difficulty, of high joy or celebration, Your presence and power are available to correct us when we are wrong and to bless us when we are right. In Your name, we pray, Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Would the gentleman from California [Mr. BATES] come forward and lead the House in the Pledge of Allegiance.

Mr. BATES led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2266. An act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes;

H.R. 2267. An act to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987);

H.R. 4102. An act to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, AZ, and for other purposes; and

H.R. 4919. An act to approve the governing international fishery agreement between the United States and the Union of Soviet Socialist Republics, and for other purposes.

The message also announced that the Senate has passed bills, joint resolutions, and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 136. An act to improve the health status of Native Hawaiians, and for other purposes;

S. 2204. An act to implement the Inter-American Convention on International Commercial Arbitration;

S. 2723. An act to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes;

S.J. Res. 378. Joint resolution designating the week of October 2 through 8, 1988, as "National Wild and Scenic Rivers Act Week";

S.J. Res. 379. Joint resolution to establish as the policy of the United States the preservation, protection, and promotion of the rights of indigenous Americans to use, practice and develop Native American languages, and for other purposes;

S. Con. Res. 140. Concurrent resolution calling for the restoration of democracy in Panama and pledging economic assistance; and

S. Con. Res. 149. Concurrent resolution expressing the sense of the Congress regarding the restoration of democracy to Haiti and on conditions for the resumption of United States assistance to that country.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar.

The Clerk will call the first eligible bill on the Consent Calendar.

C. CLIFTON YOUNG FEDERAL BUILDING

The Clerk called the Senate bill (S. 1827) to designate the Federal building located at 330 Booth Street in Reno, NV, as the "C. Clifton Young Federal Building."

There being no objection, the Clerk read the Senate bill, as follows:

S. 1827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 330 Booth Street in Reno, Nevada, shall hereafter be known and designated as the "C. Clifton Young Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "C. Clifton Young Federal Building".

With the following committee amendment in the nature of a substitute.

Strike out all after the enacting clause and insert:

SECTION 2. DESIGNATION.

The Federal building and United States courthouse located at 330 Booth Street in Reno, Nevada, shall be known and designated as the "C. Clifton Young Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "C. Clifton Young Federal Building and United States Courthouse".

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the Federal building and United States courthouse located at 300 Booth Street in Reno, NV, as the 'C. Clifton Young Federal Building and United States Courthouse' ".

A motion to reconsider was laid on the table.

AUTHORIZING USE OF DEPOSITIONS IN CONNECTION WITH AN IMPEACHMENT INQUIRY OF THE COMMITTEE ON THE JUDICIARY

Mr. EDWARDS of California. Mr. Speaker, I offer a privileged resolution (H. Res. 562) authorizing the use of depositions in connection with an impeachment inquiry of the Committee on the Judiciary, and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 562

Resolved, That the Committee on the Judiciary or its Subcommittee on Civil and Constitutional Rights, in connection with the inquiry into the conduct of United States District Judge Walter L. Nixon, Jr., may authorize the taking of affidavits and of depositions by counsel to such committee pursuant to notice or subpoena.

The SPEAKER. The gentleman from California [Mr. EDWARDS] is recognized for 1 hour.

Mr. EDWARDS of California. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER], pending which I yield myself such time as I may consume.

Mr. Speaker, the Committee on the Judiciary is conducting an inquiry to determine whether U.S. District Judge Walter L. Nixon, Jr., has engaged in conduct which would warrant im-

peachment. The judicial conference of the United States transmitted this matter to the Speaker of the House of Representatives on March 15, 1988, certifying that consideration of the impeachment of Judge Nixon may be warranted. The matter has been referred to the Subcommittee on Civil and Constitutional Rights, which I chair. The subcommittee is actively investigating whether Judge Nixon should remain on the bench, and the investigation has not yet been completed.

The subcommittee's inquiry into the conduct of Judge Nixon includes interviewing witnesses who may have information relevant to the investigation. Certain witnesses have indicated an unwillingness to respond to questioning unless they are subpoenaed. A number of these witnesses are located far from the District of Columbia and it is uncertain whether their testimony will be pertinent because of the exploratory nature of the questioning. It is desirable that these witnesses be questioned without the formality of subcommittee hearing.

On September 27, 1988, the Committee on the Judiciary unanimously reported favorably on the resolution now before the House. An identical resolution was passed by the House less than 1 year ago in connection with the impeachment inquiry involving Judge Alcee L. Hastings, and was of value to the committee in the Hastings investigation.

For these reasons, I urge you to support the resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur in the remarks made by the gentleman from California [Mr. EDWARDS] as to the necessity of this resolution.

The Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary has had an ongoing investigation into whether Walter L. Nixon, Jr., chief judge of the U.S. District Court of the Southern District of Mississippi, should be impeached. That investigation is not yet complete, and it is important that the committee and the subcommittee be granted the authority that is proposed in this resolution to continue the investigation with the least possible cost to the Congress, and that can be done, rather than sending the subcommittee to the places to have a formal hearing of the witnesses, simply by authorizing our counsel to conduct depositions and to take affidavits of these witnesses. This is cost-effective. It will allow the subcommittee to more expeditiously complete its investigation on whether Judge Nixon should be impeached, and I am hopeful that the subcommittee will have a report early in the next Congress either recommending that Judge Nixon be impeached or recommending that his actions do not warrant impeachment.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed until later today following the Suspension Calendar. The Chair will have an announcement with respect to bills on suspension.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XVI.

The first 10 such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules today.

The remaining votes will be taken tomorrow or Wednesday pursuant to the Chair's subsequent announcement under clause 5, rule I.

SALUTE TO SEYMOUR KNOX

(Mr. HOUGHTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOUGHTON. Mr. Speaker, here in Washington, we are exposed daily to issues of national concern, sometimes international concern, with orators holding forth on their own particular slant and philosophy. The longer I am here the more I realize that the good and the decent and the right things that happen in this country happen usually back home by special lifegivers who do not say much and do not toot their own horns, but somehow "make a difference", which I suppose is something which we all aspire to.

One such special lifegiver, one silent citizen, is Seymour Knox, age, 90; home, Buffalo. This extraordinary man, in his own way, has done more to enhance the Nation's sense of beauty and design and, frankly, the general uplifting of our standards than anyone I know. Great citizen, wonderful father, extraordinary athlete, deep believer in his hometown of Buffalo, Mr. Knox, on your 90th birthday, we salute you.

SUPPORT CONCURRENT RESOLUTION CONCERNING CHEMICAL WEAPONS

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, Senator DIXON and I introduce legislation which makes a statement from the U.S. Congress to the international community. The concurrent resolution we are introducing attacks what we see as an imminent threat to international trust and to the security of mankind throughout the world. To what do I refer? I am talking about chemical weapons.

Recent events have reminded us of the horrendous repercussions to the use of these hellish poisons. The ban on chemical weapons by the Geneva protocol of 1925, and the convention of 1949, give testimony to the nightmares witnessed by their use during World War I, a perverse use of weapons which over 110 nations have signed a treaty vowing not to repeat. Silent, deadly, and indiscriminate, chemical weapons attack civilians and other noncombatants with a ferocity, leaving them scarred and wounded, bleeding and blistered. It is clear that the use of chemical weapons violates recognized international law. More importantly, such use rebukes our understanding of human rights in general, and thus of more basic, and more important laws of mankind.

In his recent speech to the United Nations, the President emphasized his intentions to draw together a world conference to establish an effective means of achieving a world ban on the use of chemical weapons.

The concurrent resolution which Senator DIXON and I introduce intends to establish a unilateral enforcement clause for deterring the use of chemical weapons. Thus, the Congress can both support, and extend further, the diplomatic resolves which will take place amongst many nations.

As a world leader, the United States must stand in contempt of the offense against nations which the use of chemical weapons represents, must stand strong in confronting a threat which dares to drag us all down to the level of fighting the unknown enemy. There are no great powers in the face of the use of chemical weapons; there are no big guns; there are only the vulnerable faces of people.

Let Congress stand forward in their defense.

OUR COUNTRY HAS ITS OWN HORROR: AIDS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I want to underscore the remarks of the last speaker, my colleague, on the horror of poison gas.

The world was stunned when the first pictures came out of a small city in the northeast corner of Iraq called Halabja; 5,000 people probably had been killed there because of poison gas.

But we have a horror occurring in our own country with an enormous death toll already, and it is the public-health plague of AIDS.

□ 1215

If we adjourn this week, Mr. Speaker, and we all hope we do, when we next convene in January, 5,000 more people will be dead of AIDS. And that is a low figure. That will bring the death toll to 47,000, equal to the combat deaths in Vietnam over a 9-year period.

The problem is, deaths from ARC, AIDS-related complex, are not counted; deaths from direct attack upon the nervous system and the brain, by the HI virus are not counted. The doctors at the World Health Organization, CDC, and National Institutes of Health tell us that we probably will never have a cure. Probably the best we can do is medication to control the disease, much as we control diabetes with insulin. As if that weren't enough, Mr. Speaker, this House just passed a cowardly AIDs bill which contained no reporting requirements, no contact tracing, and no spousal notification. This is truly a nightmare, and this Congress has contributed to it.

NO NEED TO ASSIST THE COMMUNIST SANDINISTAS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, on September 20, Speaker of the House JIM WRIGHT made headlines with attributed reports stating;

We have received clear testimony from CIA people that they have deliberately done things to provoke an overreaction on the part of the government of Nicaragua.

Soon following the comment of the Speaker of the House, the Marxist Government of Nicaragua conveniently excused themselves from observing basic human rights and issued orders to stifle public demonstrations on the grounds that they were certainly inspired by the CIA.

After squelching one recent demonstration, Alberto Saborio, president of the Nicaraguan Bar Association, reacted by saying;

To accuse the 6,000 to 7,000 people that were protesting on the streets, risking their lives to defend their liberty and fundamental rights, of being members of the CIA is the best service that JIM WRIGHT can give to Moscow, the Sandinista cause and the cause of international communism.

Mr. Speaker, America deserves and expects more from a Speaker of the House than abetting Communists and providing our adversaries political fodder whereby they can continue to oppress their own people. America, at the very least, deserves a Speaker of the House who can distinguish between the good guys and the bad.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
October 3, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 12:15 a.m. on Saturday, October 1, 1988 the following message from the Secretary of Senate: That the Senate agreed to the conference report on H.R. 4587; agreed to the conference report and agreed to the House amendments to the Senate Amendments numbered 3, 12, 15, 19, 21, 22, 24, 26, and 29 to H.R. 4776; and that the Senate receded from its amendments to House amendments to Senate amendments numbered 176 and 182 to H.R. 4637.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills on Saturday, October 1, 1988:

H.R. 4587. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4637. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4776. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes; and

H.R. 4781. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

VETERANS' JUDICIAL REVIEW ACT

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5288) to amend title 38, United States Code, to provide an improved system of review of decisions of the Veterans' Administration with respect to claims for veterans' benefits, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Judicial Review Act".

SEC. 2. DECISIONS BY ADMINISTRATOR.

Section 211 of title 38, United States Code, is amended to read as follows:

"§ 211. Decisions by Administrator; opinions of Attorney General

"(a)(1) The Administrator shall decide all questions of law and fact necessary to a decision under a law affecting the provision of benefits to veterans and the dependents and survivors of veterans. Except as provided in paragraph (2) of this subsection, the decisions of the Administrator as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

"(2) The second sentence of paragraph (1) of this subsection shall not apply to—

"(A) matters subject to section 223 of this title;

"(B) matters covered by sections 775 and 784 of this title;

"(C) matters arising under chapter 37 of this title; and

"(D) matters covered by chapter 71 of this title.

"(b) When requested by the Administrator, the Attorney General shall provide to the Administrator advice or the opinion of the Attorney General with regard to any question of law arising under the Constitution or under any law other than a law providing benefits for veterans and the survivors and dependents of veterans.".

SEC. 3. VETERANS' ADMINISTRATION RULEMAKING.

(b) APA PROCEDURES.—(1) Chapter 3 of title 38, United States Code, is amended by inserting after section 222 the following new section:

"§ 223. Rulemaking: procedures and judicial review

"(a) In applying section 552(a)(1) of title 5 to the Veterans' Administration, the Administrator shall take care to ensure that subparagraphs (C) and (D) of that section are complied with, particularly with respect to opinions and interpretations of the General Counsel.

"(b) The provisions of section 553 of title 5 (other than subsection (a)(2) of that section) shall apply, according to the provisions of that section, to any matter relating to loans, grants, or benefits under the jurisdiction of the Administrator.

"(c) An action of the Administrator to which section 552(a)(1) or 553 of title 5 (or both) refers (other than an action relating to the adoption or revision of the schedule of ratings for disabilities under section 355 of this title) is subject to judicial review. Such review shall be in accordance with chapter 7 of title 5, except that—

"(1) such review may be sought only in the Court of Appeals for the Federal Circuit; and

"(2) if such review is sought in connection with an appeal brought under the provisions of chapter 71 of this title, the provisions of that chapter shall apply rather than the provisions of chapter 7 of title 5.".

(2) The table of sections at the beginning of such chapter is amended—

(A) by striking out the item relating to section 211 and inserting in lieu thereof the following:

"211. Decisions by Administrator; opinion of Attorney General."; and.

(B) by inserting after the item relating to section 222 the following new item:

"223. Rulemaking: procedures and judicial review.".

SEC. 4. ATTORNEY FEES.

(a) REVISION OF ATTORNEY FEE LIMITATION.—Section 3404(c) of title 38, United States Code, is amended to read as follows:

"(c)(1) In connection with a case relating to benefits under laws administered by the Veterans' Administration, no fee may be charged, allowed, or paid for services of agents and attorneys with respect to proceedings occurring or services provided prior to the time the Administrator issues a statement of the case under section 4015 of this title with respect to the case in question.

"(2) A person who acting as agent or attorney represents a person before the Veterans' Administration with respect to any proceeding on matters occurring after the Administrator issues a statement of the case shall file a copy of any fee agreement between them with the Veterans' Administration at such time as may be specified by the Administrator. The Administrator may review such a fee arrangement and may order a reduction in the fee called for in the agreement if the Administrator finds that the fee is excessive or unreasonable. An order under this paragraph may be reviewed by the Court of Veterans Appeals.".

(b) VIOLATION TO BE A MISDEMEANOR.—Section 3405 of such title is amended by striking out "shall be fined not more than $500 or imprisoned at hard labor for not more than two years, or both" and inserting in lieu thereof "shall be fined as provided in title 18 or imprisoned for not more than one year, or both".

SEC. 5. COURT OF VETERANS APPEALS.

(a) ESTABLISHMENT OF COURT.—Chapter 71 of title 38, United States Code, is amended to read as follows:

"CHAPTER 71—COURT OF VETERANS APPEALS

"SUBCHAPTER I—ORGANIZATION AND JURISDICTION

"Sec.
"4001. Status.
"4002. Jurisdiction; finality of decisions.
"4003. Composition.
"4004. Organization.
"4005. Offices.
"4006. Times and places of sessions.

"SUBCHAPTER II—PROCEDURE

"4011. Fee for filing petition.
"4012. Representation of parties; fee agreements.
"4013. Rules of practice, procedure, and evidence.
"4014. Administration of oaths and procurement of testimony.
"4015. Filing of notice of disagreement and appeal.
"4016. Witness fees.
"4017. Hearings.
"4018. Decisions.
"4019. Availability of proceedings.
"4020. Publication of reports.

"SUBCHAPTER III—MISCELLANEOUS PROVISIONS

"4031. Employees.
"4032. Expenditures.
"4033. Disposition of fees.
"4034. Fee for transcript of record.
"4035. Practice fee.

"SUBCHAPTER IV—DECISIONS AND REVIEW

"4041. Date when Court of Veterans Appeals decision becomes final.
"4042. Review by Court of Appeals for the Federal Circuit.

"SUBCHAPTER I—ORGANIZATION AND JURISDICTION

"§ 4001. Status

"There is hereby established, under article I of the Constitution, a court of record to be known as the United States Court of Veterans Appeals.

"§ 4002. Jurisdiction; finality of decisions

"The Court of Veterans Appeals shall have exclusive jurisdiction to consider all questions involving benefits under laws administered by the Veterans' Administration. Decisions by the Court are subject to review as provided in section 4042 of this title. A determination by the Court of Veterans Appeals as to a factual matter may not be reviewed in any other court. The Court may not review the schedule of ratings for disabilities under section 355 of this title or any action of the Administrator in adopting or revising that schedule.

"§ 4003. Composition

"(a) The Court of Veterans Appeals shall be composed of a chief judge, two deputy chief judges, and not more than 62 associate judges.

"(b) The judges of the Court of Veterans Appeals shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. A person may not be appointed to the Court who is not a member of the bar of a Federal court or of the highest court of a State.

"(c) The term of office of the chief judge and of the two deputy chief judges of the Court shall be 15 years. The term of office of an associate judge of the Court shall be 10 years.

"(d) The chief judge is the head of the Court. The deputy chief judges shall perform such functions as the chief judge directs.

"(e)(1) The chief judge and the two deputy chief judges shall each receive a salary at the same rate as is in effect for judges of the district courts of the United States.

"(2) The associate judges of the court shall each receive a salary at a rate not to exceed the rate of basic pay in effect for positions at Level IV of the Executive Schedule.

"(f)(1) A judge of the Court of Veterans Appeals may be removed from office by the President on grounds of misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability which, in the opinion of the President, prevents the proper execution of the judge's duties. A judge of the Court may not be removed from office by the President on any other grounds.

"(2) Before a judge may be removed from office under this subsection, the judge shall be provided with a full specification of the reasons for the removal and an opportunity to be heard.

"(3) A judge of the Court who is removed from office under this subsection (other than for physical disability) shall not be permitted to practice before the Court.

"§ 4004. Organization

"(a) The Court of Veterans Appeals shall have a seal which shall be judicially noticed.

"(b) The Court may hear cases by judges sitting alone or in panels, as designated by the chief judge. Any such panel shall have not less than three judges. The chief judge shall assign the judges of the Court to such panels and shall designate the chief of each such panel.

"(c)(1) A majority of the judges of the Court shall constitute a quorum for the transaction of the business of the Court. A vacancy in the Court shall not impair the powers or affect the duties of the Court or of the remaining judges of the Court.

"(2) A majority of the judges of a panel of the Court shall constitute a quorum for the transaction of the business of the panel. A vacancy in a panel of the Court shall not impair the powers or affect the duties of the panel or of the remaining judges of the panel.

"§ 4005. Offices

"The principal office of the Court of Veterans Appeals shall be in the District of Columbia, but the Court and any panel of the Court may sit at any place within the United States.

"§ 4006. Times and places of sessions

"The times and places of sessions of the Court of Veterans Appeals shall be prescribed by the chief judge. Those times and places shall be prescribed with a view to securing reasonable opportunity to petitioners to appear before the Court with as little inconvenience and expense to petitioners as practicable.

"SUBCHAPTER II—PROCEDURE

"§ 4011. Fee for filing petition

"The Court of Veterans Appeals may impose a fee for the filing of any petition with the court. The amount of any such fee may not exceed $50. The court shall establish procedures under which such a fee may be waived in the case of a person who demonstrates that the requirement that such fee be paid will impose a hardship. A decision as to such a waiver is final and may not be not reviewed in any other court.

"§ 4012. Representation of parties; fee agreements

"(a) The Administrator shall be represented before the Court of Veterans Appeals by the General Counsel of the Veterans' Administration. A petitioner shall be represented in accordance with the rules of practice prescribed by the Court. A qualified person may not be denied admission to practice before the Court by reason of failure to be a member of any profession or calling.

"(b) A person who represents a petitioner before the Court shall file a copy of any fee agreement between the petitioner and that person with the Court at the time the petition is filed. The Court may review such a fee arrangement and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable. An order under this subsection is final and may not be reviewed in any other court.

"§ 4013. Rules of practice, procedure, and evidence

"(a) The proceedings of the Court of Veterans Appeals shall be conducted in accordance with such rules of practice, procedure, and evidence as the Court prescribes.

"(b) The mailing of a pleading, decision, order, notice, or process in respect of proceedings before the Court shall be held sufficient service of such pleading, decision, order, notice, or process if it is properly addressed to the address furnished by the petitioner on the notice of appeal and it is mailed by certified or registered mail.

"§ 4014. Administration of oaths and procurement of testimony

"(a) Oaths may be administered by a judge of the Court of Veterans Appeals, the clerk of the Court and any deputy clerk of the Court, and any other employee of the Court designated in writing for such purpose by the chief judge.

"(b)(1) A judge of the Court and any employee of the Court designated for such purpose under section 4017(b) of this title may examine witnesses.

"(2) A judge of the Court may require by subpoena—

"(A) the attendance and testimony of witnesses, and the production of all necessary books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing, and

"(B) the taking of a deposition before any designated individual competent to administer oaths under this chapter.

"(3) In the case of a deposition, the testimony shall be reduced to writing by the individual taking the deposition or under that individual's direction and shall then be subscribed by the person giving the deposition.

"(4) A subpoena under this subsection shall be ordered by the Court of Veterans Appeals and shall be signed by the chief judge (or the clerk of the Court or any other employee of the Court when acting as deputy clerk).

"(c) The Court shall, upon a showing of good cause, require employees of the Veterans' Administration to testify at a hearing or to give a deposition in a proceeding before the Court.

"(d)(1) The Court shall have power to punish by fine or imprisonment such contempt of its authority as—

"(A) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(B) misbehavior of any of its officers in their official transactions; or

"(C) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(2) The Court shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for a district in which the Court is sitting shall, if requested by the chief judge of the Court, attend any session of the Court in that district.

"§ 4015. Filing of notice of disagreement and appeal

"(a)(1) A petitioner may initiate review by the Court of Veterans Appeals by filing a notice of disagreement with the activity or office (hereinafter in this chapter referred to as the 'agency of original jurisdiction') which made the determination with which disagreement is expressed. Any such notice must be filed within 180 days of the mailing of the notice of decision. In simultaneously contested claims where one is allowed and one is denied, the time allowed for filing a notice of disagreement shall be 60 days from the date notice of the adverse decision is mailed. In such a case, the agency of original jurisdiction shall notify all interested persons of the shortened time period for filing a notice of disagreement.

"(2) A notice of disagreement shall be in writing and shall be filed by the petitioner.

"(3) If a notice of disagreement is not filed in accordance with this section within the prescribed period, the determination shall become final and the petitioner may not thereafter request reconsideration of the claim except as permitted by this title.

"(b) If a petitioner files a notice of disagreement within the prescribed period with the agency of original jurisdiction, the agency of original jurisdiction shall take such action to develop additional evidence or to review the case as it considers proper. If that action does not resolve the disagreement either by granting the benefit sought or through withdrawal of the notice of disagreement, the agency of original jurisdiction shall promptly issue to the petitioner a formal statement containing the matters specified in subsection (c) of this section and known as a statement of the case.

"(c) A statement of the case under subsection (b) of this section shall include the following:

"(1) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed.

"(2) A citation to pertinent laws and regulations and a discussion of how such laws and regulations affect the agency's decision.

"(3) The decision on each issue and a summary of the reasons for such decision.

"(d)(1) In order to complete and perfect an appeal to the Court, the petitioner must file a formal appeal with the Court as prescribed by the rules of the Court within 90 days of the mailing of the statement of the case. Such time period may be extended by the Court for good cause shown.

"(2) An appeal shall be in such form as the Court shall by rule prescribe. An appeal shall set out specific allegations of error of fact or law which are related to issues presented by the petitioner's claim. The benefits sought on appeal shall be clearly identified.

"(e)(1) The Court shall base its decision on the entire record. The Court may dismiss an appeal which fails to allege a specific error of fact or law in the determination being appealed.

"(2) If the Court finds that the record sets forth insufficient evidence upon which to base a decision, the Court may remand the petition or take such other steps as it considers appropriate.

"(f) The agency of original jurisdiction and the Court shall adopt appropriate procedures to expedite decisions on simultaneous claims in order to assure a prompt and fair resolution of a disagreement.

"§ 4016. Witness fees

"(a) A witness who is summoned or whose deposition is taken under section 4015 of this title shall receive the same fees and mileage as witnesses in courts of the United States.

"(b) Such fees and mileage and the expenses of taking any such deposition shall be paid as follows:

"(1) In the case of a witness for the Administrator, such payments shall be made by the Administrator out of moneys appropriated for general operating expenses and may be paid in advance.

"(2) In the case of any other witness, such payments shall be made, subject to rules prescribed by the Court of Veterans Appeals, by the party at whose instance the witness appears or the deposition is taken.

"§ 4017. Hearings

"(a) Notice and opportunity to be heard upon a proceeding instituted before the Court of Veterans Appeals shall be given to the petitioner and to the Administrator. A hearing before the Court may be closed to the public upon the determination of the Court. The testimony and the argument at any such hearing shall be stenographically reported.

"(b) The Court may designate employees of the Court to conduct hearings relating to a case and to make recommendations to the Court with respect to the case.

"§ 4018. Decisions

"(a) A decision upon a proceeding before the Court of Veterans Appeals shall be made as quickly as practicable. In a case heard by a panel of the Court, the decision shall be made by a majority vote of the panel in accordance with the rules of the Court. The decision of the judge or panel hearing the case so made shall be the decision of the Court except as provided in subsection (d) of this section.

"(b) The Court shall include in its decision upon a proceeding a statement of its findings of fact and conclusions of law. Subject to such conditions as the Court may by rule provide, the requirements of this subsection are met if findings of fact or conclusions of law are stated orally and recorded in the transcript of the proceedings.

"(c) A judge or panel shall make a determination upon any proceeding before the Court, and any motion in connection therewith, that is assigned to the judge or panel by the chief judge. The judge or panel shall make a report of any such determination which constitutes its final disposition of the proceeding.

"(d) The decision of the judge or panel shall become the decision of the Court at the end of the 30-day period beginning on the date of the report by the judge or panel, unless within that period the chief judge, upon the motion of either party, at the request of the judge or panel, or at the chief judge's own initiative, directs that such decision shall be reviewed by an enlarged panel of the Court. The decision of a judge or panel shall not be a part of the record in any case in which the chief judge directs that such report shall be reviewed by an enlarged panel of the Court.

"(e) The Court shall designate in any such decision those specific records of the Government on which it relied (if any) in making its decision. The Administrator shall preserve records so designated for not less than the period of time designated by the Administrator of the National Archives and Records Administration.

"§ 4019. Availability of proceedings

"(a) Except as provided in subsection (b) of this section, all decisions of the Court of Veterans Appeals and all evidence received by the Court and its panels, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public.

"(b)(1) The Court may make any provision which is necessary to prevent the disclosure of confidential information, including a provision that any such document or information be placed under seal to be opened only as directed by the Court.

"(2) After the decision of the Court in a proceeding becomes final, the Court shall permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and

other exhibits, introduced in evidence before the Court or any panel or the Court may, on its own motion, make such other disposition thereof as it considers advisable.

"§ 4020. Publication of reports

"(a) The Chief Judge shall designate in those decisions of the Court of Veterans Appeals which shall have value as a precedent.

"(b) The Court shall provide for the publication of decisions so designated in such form and manner as may be best adapted for public information and use.

"(c) Such authorized publication shall be competent evidence of the reports of the Court of Veterans Appeals therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

"(d) Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

"SUBCHAPTER III—MISCELLANEOUS PROVISIONS

"§ 4031. Employees

"(a) The Court of Veterans Appeals may appoint, in accordance with the provisions of title 5 governing appointment in the competitive service, and may fix the basic pay of, in accordance with chapter 51 and subchapter III of chapter 53 of such title, such employees as may be necessary to execute the functions vested in the Court. The Court may classify such positions based upon the classification of comparable positions in the judicial branch.

"(b) The Court may employ physicians and other health professionals to provide it with expert medical advice.

"§ 4032. Expenditures

"The Court of Veterans Appeals may make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals) as may be necessary efficiently to execute the functions vested in the Court. Except as provided in section 4035 of this title, all expenditures of the Court shall be allowed and paid, out of any moneys appropriated for purposes of the Court, upon presentation of itemized vouchers signed by the certifying officer designated by the chief judge.

"§ 4033. Disposition of fees

"Except as provided in section 4035 of this title, all fees received by the Court of Veterans Appeals shall be covered into the Treasury as miscellaneous receipts.

"§ 4034. Fee for transcript of record

"The Court of Veterans Appeals may fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry, or other paper and the comparison and certification thereof.

"§ 4035. Practice fee

"(a) The Court of Veterans Appeals may impose a periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed $30 per year.

"(b) The fees described in subsection (a) of this section shall be available to the Court for the purpose of employing independent counsel to pursue disciplinary matters.

"SUBCHAPTER IV—DECISIONS AND REVIEW

"§ 4041. Date when Court of Veterans Appeals decision becomes final

"(a) A decision of the Court of Veterans Appeals shall become final—

"(1) upon the expiration of the time allowed for filing a notice of appeal from such decision, if no such notice is duly filed within such time; or

"(2) if such a notice is filed within such time—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit and no petition for certiorari is duly filed;

"(B) upon the denial of a petition for certiorari, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit; or

"(C) upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court directs that the decision of the Court of Veterans Appeals be affirmed or the appeal dismissed.

"(b)(1) If the Supreme Court directs that the decision of the Court of Veterans Appeals be modified or reversed, the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(2) If the decision of the Court of Veterans Appeals is modified or reversed by the United States Court of Appeals for the Federal Circuit and if—

"(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(B) the petition for certiorari has been denied, or

"(C) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the United States Court of Appeals for the Federal Circuit shall become final on the expiration of 30 days from the time such decision of the Court of Veterans Appeals was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(c) If the Supreme Court orders a rehearing, or if the case is remanded by the United States Court of Appeals for the Federal Circuit to the Court of Veterans Appeals for a rehearing, and if—

"(1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(2) the petition for certiorari has been denied, or

"(3) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered upon such rehearing shall become final in the same manner as though no prior decision of the Court of Veterans Appeals had been rendered.

"(d) As used in this section, the term 'mandate', in case a mandate has been recalled before the expiration of 30 days from the date of issuance thereof, means the final mandate.

"§ 4042. Review by Court of Appeals for the Federal Circuit

"(a)(1)(A) After a decision of the Court of Veterans Appeals is entered in a case, any party to the case may obtain a review of the decision with respect to the validity of any statute or regulation (other than the schedule of ratings for disabilities under section 355 of this title) or any interpretation thereof (other than a determination as to a factual matter) that was relied on by the Court in making the decision. Such a review shall be obtained by filing a notice of appeal within such time after the notice of such decision is mailed to the petitioner as may be prescribed by the Supreme Court under section 2072 of title 28.

"(B) The United States Courts of Appeals for the Federal Circuit shall have exclusive jurisdiction to review and decide any challenge to the validity of any statute or regulation or any interpretation thereof brought under this section, and to interpret constitutional and statutory provisions, to the extent presented and necessary to a decision. The judgment of such court shall be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28.

"(2)(A) When a judge or panel of the Court of Veterans Appeals determines that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that there is in fact a disagreement between the petitioner and the Veterans' Administration with respect to that question of law and that the ultimate termination of the case may be materially advanced by the immediate consideration of that question, the judge or panel shall notify the chief judge of that determination. Upon receiving such a notification, the chief judge shall certify that such a question is presented, and any party to the case may then petition the United States Court of Appeals for the Federal Circuit to decide the question. That court may permit an interlocutory appeal to be taken on that question if such a petition is filed with it within 10 days after the certification by the chief judge of the Court of Veterans Appeals. Neither the application for, nor the granting of, an appeal under this paragraph shall stay proceedings in the Court of Veterans Appeals, unless a stay is ordered by a judge of the Court of Veterans Appeals or by the United States Court of Appeals for the Federal Circuit.

"(B) For purposes of subsections (b) and (c) of this section, an order described in this paragraph shall be treated as a decision of the Court of Veterans Appeals.

"(b) The Court of Appeals for the Federal Circuit shall decide all relevant questions of law, including interpreting constitutional and statutory provisions. The court shall hold unlawful and set aside any statute or regulation or any interpretation thereof (other than a determination as to a factual matter) that was relied upon in the decision of the Court of Veterans Appeals that the Court of Appeals for the Federal Circuit finds to be—

"(1) contrary to constitutional right, power, privilege, or immunity;

"(2) in excess of statutory jurisdiction or authority;

"(3) without observance of procedure required by law; or

"(4) resting upon a policy judgment, reasoning, or factual premise so unacceptable as to render the matter arbitrary or capricious.

The Court of Appeals may not review the facts of the appeal or the application of any law or regulation to those facts unless there is presented a constitutional issue.

"(c)(1) Upon such review, the Court of Appeals for the Federal Circuit shall have power to affirm or, if the decision of the Court of Veterans Appeals is not in accordance with law, to modify or to reverse the decision of the Court of Veterans Appeals. If the decision is modified or reversed, the Court shall remand the case to the Court of Veterans Appeals for a rehearing, as justice may require.

"(2) Rules for review of decisions of the Court of Veterans Appeals shall be those prescribed by the Supreme Court under section 2072 of title 28.

"(3) The United States Court of Appeals for the Federal Circuit and the Supreme Court may impose damages in a case in which the decision of the Court of Veterans Appeals is affirmed and it appears that the notice of appeal was filed merely for delay.".

(b) CLERICAL AMENDMENT.—The items relating to chapter 71 in the tables of chapters before part I and at the beginning of part V are each amended to read as follows:

"71. Court of Veterans Appeals..... 4001".

SEC. 6. ADJUDICATIVE AUTHORITY OF VETERANS' ADMINISTRATION.

(a) IN GENERAL—Chapter 51 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—GENERAL ADJUDICATIVE AUTHORITY

"§ 3031. Right to reopen claims

"Upon the presentation of new and material evidence, the Administrator may review any previous determination of the Administrator with respect to benefits under laws administered by the Veterans' Administration. Any such review shall be carried out in accordance with regulations which the Administrator shall prescribe.

"§ 3032. Independent medical opinions

"(a) When, in the judgment of the Administrator, expert medical opinion, in addition to that available within the Veterans' Administration, is warranted by the medical complexity or controversy involved in a case being considered by the Veterans' Administration, the Administrator may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Veterans' Administration.

"(b) The Administrator shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions at the request of the Administrator. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

"§ 3033. Burden of proof; benefit of the doubt

"(a) Except when otherwise provided by the Administrator in accordance with the provisions of this title, a person who is a claimant for benefits under a law administered by the Veterans' Administration shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Administrator shall assist a claimant in developing the facts pertinent to such a claim. Such assistance shall include requesting information as described in section 3006 of this title.

"(b) When, upon considering all evidence and material of record in a proceeding before the Veterans' Administration involving a claim for benefits under a law administered by the Veterans' Administration, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the claim, the benefit of the doubt in resolving each such issue shall be given to the claimant. Nothing in this subsection shall be construed as shifting from the claimant to the Administrator the burden specified in subsection (a) of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER IV—GENERAL ADJUDICATIVE AUTHORITY

"3031. Right to reopen claims.
"3032. Independent medical opinions.
"3033. Burden of proof; benefit of the doubt.".

SEC. 7. TRANSFER OF PERSONNEL AND ASSETS OF BOARD OF VETERANS APPEALS.

(a) TRANSFERS.—The personnel employed, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available, in connection with functions and offices of the Board of Veterans' Appeals shall be transferred to the Court of Veterans Appeals.

(b) PERSONNEL.—Personnel transferred pursuant to subsection (a) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that the classification and compensation of such personnel may not be reduced for one year after such transfer.

(c) UNEXPENDED FUNDS.—Unexpended funds transferred pursuant to subsection (a) may be used only for the purposes for which the funds were originally authorized and appropriated.

(d) PRESERVATION OF EXISTING CASES.—Any matter which on the day before the effective date of this Act is pending before the Board of Veterans' Appeals shall be transferred to the Court of Veterans Appeals and shall be pending in the same manner before such Court.

SEC. 8. INITIAL APPOINTMENT OF JUDGES TO COURT OF VETERANS APPEALS.

(a) CHIEF JUDGE TO BE APPOINTED FIRST.—The President may not appoint an individual to be a deputy chief judge or associate judge of the Court of Veterans Appeals under section 4003(b) of title 38, United States Code, as added by this Act, until the chief judge of such Court has been appointed. The President shall nominate an individual for appointment to the position of chief judge of such Court not later than April 1, 1989.

(b) STAGGERING OF INITIAL APPOINTMENTS.—Of the persons first appointed to the Court of Veterans Appeals under section 4003(b) of title 38, United States Code, as added by this Act—

(1) one of the deputy chief judges shall be appointed for a term of seven years, as designated by the President at the time of appointment; and

(2) of the associate judges—

(A) one-third shall be appointed for a term of 4 years;

(B) one-third shall be appointed for a term of 7 years; and

(C) one-third shall be appointed for a term of 10 years;

as designated by the President at the time of appointment.

(c) JUDGES.—Judges of the Court of Veterans Appeals may be appointed before the effective date of this Act.

SEC. 9. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—This Act shall take effect on June 1, 1989.

(b) APPLICABILITY TO CASES AFTER DATE OF ENACTMENT.—A person who on or after the date of the enactment of this Act files a notice of disagreement with the Veterans' Administration with respect to a matter is entitled to have the matter determined subject to the provisions of the amendments made by this Act. The Board of Veterans' Appeals may not hear or decide a matter with respect to which a notice of disagreement is filed with the Veterans' Administration on or after the date of the enactment of this Act.

(c) APPLICABILITY TO ATTORNEYS FEES.—The amendment to section 3404(c) of title 38, United States Code, made by section 4(a) shall apply with respect to services of agents and attorneys performed after the effective date of this Act.

The SPEAKER. Is a second demanded?

Mr. SOLOMON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5288, the bill presently under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5288 would provide judicial review of decisions of the Veterans' Administration with respect to claims for veterans' benefits.

The bill enjoys bipartisan support and was ordered reported by our committee on September 15, 1988, by a vote of 29 to 4.

I am grateful to all Members of our committee who have worked hard to get this bill to the floor of the House.

I want to give special thanks to the ranking minority member of the com-

mittee, JERRY SOLOMON, for his cooperation and leadership.

I'm grateful to my good friend, and senior member of the committee, DON EDWARDS, for his willingness to work things out so that we can get a bill to the Senate and resolve our differences before the Congress adjourns.

DON EDWARDS has been one of the strongest advocates for judicial review of veterans' claims in the Congress.

He has worked for many years to obtain congressional approval.

He deserves much credit for getting this bill before the House, as does the gentleman from Illinois [Mr. EVANS], a member of the committee, who certainly has been interested in judicial review.

Mr. Speaker, I would also like to thank the Democratic leadership, the gentleman from California [Mr. COELHO] and the gentleman from Michigan [Mr. BONIOR], for their help and assistance. I appreciate the quick action of the Committee on the Judiciary, led by the gentleman from New Jersey [Mr. RODINO] and the gentleman from Massachusetts [Mr. FRANK], chairman of the Subcommittee on Administrative Law and Governmental Relations, for getting this bill to the floor today.

The issue of judicial review of veterans' claims has been around for some time.

The Committee on Veterans' Affairs first held hearings in 1952. Many hearings have followed over the years.

It is a complex and, sometimes, emotional issue.

For many years, there was no consensus among the veterans organizations on whether veterans' claims should be subject to judicial review; therefore, putting a bill together that organizations could support was very difficult.

Mr. Speaker, following extensive hearings in our committee in 1986, I stated my willingness to work with the various veterans' organizations in drafting a bill that would resolve this long-standing issue.

I believe this bill will do it.

I am pleased to say that H.R. 5288 has the support of the major veterans' organizations, including the American Legion, disabled American Veterans, Veterans of Foreign Wars, AMVETS, Jewish War Veterans, Blinded Veterans Association, American-Polish Veterans, Military Order of the Purple Heart, Non Commissioned Officers Association of U.S.A. and others.

The committee bill is also in accord with the recommendations of the judicial conference.

Mr. Speaker, since the provisions of H.R. 5288 are explained in some detail in our committee report, I will only outline the bill's major provisions.

In lieu of the Board of Veterans' Appeals, our bill would establish an article I Court of Veterans' Appeals.

We believe it is better for veterans that their cases be reviewed in a specialized court rather than the U.S. district courts.

U.S. district courts are not well equipped to make decisions that would be consistent from district to district.

In addition, they are already overburdened.

Why add to the workload?

Veterans should not have to wait years to get decisions on questions of law or fact.

A special court will expedite the decisionmaking process and its decisions will be more consistent.

The Court of Veterans' Appeals would not be bound by decisions of the administrator, VA regulations, or general counsel opinions.

Judges would be appointed by the President and confirmed by the Senate.

Each member of the court would be required to be a member in good standing of the bar of a State.

The court would be authorized to employ lawyers and doctors who would advise the court on all legal and medical matters.

The court would have authority to appoint hearing officers to hold hearings throughout the country for the convenience of veterans.

The field hearing record and the hearing officer's recommendation would be submitted to the court, which would make the decision in the case.

Under the committee bill, the veteran and his or her attorney would have a full review of the facts and law before the court on all issues raised by the veteran with the Veterans' Administration.

Determinations of fact would be final with this court.

Challenges to VA regulations, interpretation of statutes and constitutional questions could be appealed to the Court of Appeals for the Federal Circuit and on to the Supreme Court.

Mr. Speaker, the bill would repeal the $10 limitation on attorney fees under current law.

No fee would be allowed until the VA has denied a veteran's case and has issued a statement of the case.

However, veterans would then be free to negotiate a reasonable fee arrangement with an attorney.

The fee arrangement between the veteran and the attorney would be filed with the court and the court could reduce the fee if it was excessive or unreasonable.

Our committee would monitor the fee provision closely to make certain there are no abuses.

Mr. Speaker, we believe the approach we have taken will have minor impact the judicial system.

In addition, the veteran will get a prompt, independent review of the law and the facts in his or her case before a court of law. The veteran will not have to wait many years for a final decision.

This is a good bill and it deserves the strong support of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all I would like to make two comments. One is to commend the gentleman from Mississippi [Mr. MONTGOMERY] for his leadership and finally getting this very important issue to the floor in a position that we can all support; and second, I wish to thank the gentleman from California [Mr. EDWARDS] because without his full cooperation, we never could have gotten this shaken loose from the Committee on the Judiciary and out here on the floor today. So on behalf of all veterans we thank the gentleman from California [Mr. EDWARDS].

Mr. Speaker, I rise in strong support of H.R. 5288 to provide for judicial review of Veterans' Administration claims decisions and for repeal of the $10 attorney fee limitation in veterans claim cases.

This is a matter of great interest and importance to veterans. The debate about judicial review of veteran's claims has gone on for many years, always without resolution. It is a complex issue. The term "judicial review" has meant many things to many veterans. And that has been a large part of the difficulty.

But in the past several months, for the first time, a compromise has become possible as positions on the issue have evolved. SONNY MONTGOMERY, as chairman of the Veterans' Affairs Committee, and I, as ranking member, have previously opposed the judicial review bills considered by our committee. I have opposed it in the past for several reasons.

First, I haven't believed and still don't believe that judicial review will effectively fix the most pressing problems existing in the VA's present claims adjudication system, which, on the whole, operates as well as can be expected given its sometimes inadequate staffing and its obsolete data processing equipment.

Timeliness and quality of decisions are perhaps sometimes not what they should be, but in my view, it is not likely that judicial review would help.

Second, I don't want any kind of judicial review to change the basic nonadversarial character of the relationship between the VA and the veteran, and to simply create more problems for veterans and more paperwork for the VA.

Third, I don't want activist Federal judges attempting to set veterans' policy, run the VA's claims system, and decide its cases for it. We've had enough problems in the past with a

U.S. Supreme Court legislating in its decisions.

And fourth, many major veterans service organizations, which speak for millions of veterans, have either opposed judicial review entirely, or have opposed the previous bills our committee was considering. I have consistently said that I would not support judicial review if it would drive a wedge into the veterans community. While I realize complete unanimity is probably not possible, a reasonable degree of consensus is necessary.

I think that the necessary degree of consensus has now been reached, and, while many of my reservations about judicial review remain, I believe a compromise is in order.

As a result, Chairman MONTGOMERY and I introduced H.R. 5288, a bipartisan compromise, endorsed by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, and numerous other veterans groups.

Mr. Speaker, I am not a lawyer, so I do not approach judicial review from a lawyer's perspective. I approach it from a perspective if what is best and right for the veteran. This bill was overwhelmingly reported by our committee, 29-4. Its approach is intended to produce timely, consistent, and fair decisions for veterans in a truly independent court which will not be burdened by other cases having nothing to do with veterans.

While it is probably unavoidable that the VA will have to create more of a reviewable record, our proposed Court of Veterans Appeals would minimize any additional burdens on the VA and retain the most desirable features of the present system—informality, flexibility, and openness.

The new Court of Veterans Appeals would, like the Tax Court and the Court of Military Appeals, be a specialized court of the executive branch.

Although I have heard some theoretical criticisms of specialized courts in our committee hearings, I have not once heard them specifically applied to either court. So far as I know, they are both doing a thoroughly competent job. There is no reason why a Court of Veterans Appeals would not be just as successful.

And, Mr. Speaker, I want to make it very clear that the Veterans' Affairs Committee would exercise close oversight of the new court. We don't want a sweetheart court which would rubberstamp anything, and we wouldn't tolerate one.

The Court of Veterans Appeals would be empowered to rule on the facts in individual cases and on constitutional questions, as well as on the VA's regulations and compliance with legal requirements. Veterans would then have an appeal to the court of appeals for the Federal circuit on everything except the facts. The issue of factual review has been a pivotal one with the veterans groups, and most do not want it beyond a specialized court.

Lawyers would be kept out of the process until after the VA actually denies the claim. The Veterans Affairs Committee would also exercise close oversight over the fees paid by veterans to their attorneys, and attorneys would be required to file written fee agreements with the court for its review in order to protect veterans from exploitation by an lawyers inclined to be greedy.

We have found strong support for the approach taken by H.R. 5288, not only from veterans, but from eminent legal scholars, jurists, and the judicial conference.

Mr. Speaker, we have gone the extra mile with the Montgomery-Solomon compromise bill on judicial review. I realize that significant differences exist between the Senate bill, S. 11, and ours, yet I am confident that with the constructive attitude we are seeing on all sides, we can have a conference agreement and send a bill to the President before this 100th Congress concludes its business a few days from now.

Mr. Speaker, I urge all of my colleagues in the strongest possible terms to approve H.R. 5288 and send us on to a long-awaited resolution of the judicial review issue.

□ 1230

Mr. Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I rise in strong support of H.R. 5288, the Veterans Judicial Review Act.

This issue is a long-overdue subject of congressional action, and a longstanding concern of mine. I first cosponsored similar legislation in 1979, during the 96th Congress. In both the 97th and 98th Congresses I was the principal sponsor, and in the last Congress I was an original cosponsor. Once again, I seek to change the veterans' judicial review process as an original cosponsor of this legislation.

Mr. Speaker, the Administrative Procedures Act of 1947 contains safeguards to ensure that American citizens are treated fairly by the agencies that administer our Nation's laws. However, one class of citizens is conspicuously barred from the guarantees of the Administrative Procedures Act. That class is veterans. Under a 1933 law, veterans are denied the right to appeal the decisions of the Veterans' Administration regarding the benefits to which they are entitled under law.

This antiquated statute effectively bars veterans from independent appeal of VA decisions, and even independent legal counsel to advise them of their entitlements under the law. The prohibitions were originally intended to serve the interests of veterans, but in today's circumstances they are glaring anachronisms that unfairly discriminate against veterans, depriving them of the same rights to due process that have been granted to other citizens.

H.R. 5288 remedies the defects of current law while retaining certain strengths in the current system of adjudicating veterans' claims. The bill abolishes the existing Board of Veterans Appeals and establishes an independent Court of Veterans Appeals. The new court will rule on all disputes involving the VA and veterans.

Mr. Speaker, there is no question that a system without judicial review is simpler than a system with judicial review. However, the prospect of a few more cases in the courts, and of requiring VA personnel to go to court to correct mistakes in the VA's favor as well as mistakes in the favor of veterans, is overshadowed by the need to protect the real interests of veterans and the integrity of our system of administering laws.

It would be marginally more convenient for the government to continue its denial of judicial review for veterans. This convenience, though, is bought at a high cost. A small number of veterans pay with real hardship; all veterans pay with insecurity in their legal entitlements; and our Nation as a whole pays by compromising the equal right of all citizens to appeal to an independent judiciary for due process and fair treatment under the law.

Ending this aberration should be an urgent concern of this Congress. I respectfully urge the House to pass H.R. 5288 so that those who so selflessly served this country can receive the due process they deserve.

Mr. MONTGOMERY. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. EDWARDS], the ranking majority member and senior dean on our Committee on Veterans' Affairs.

Mr. EDWARDS of California. Mr. Speaker, I thank the distinguished chairman of the committee for his gracious remarks, and also the ranking minority member, the gentleman from New York [Mr. SOLOMON].

Mr. Speaker, I rise in support of H.R. 5288.

Mr. Speaker, for many years I have authored, along with many other members, legislation to provide judicial review for veterans. Indeed, H.R. 639, authored and introduced in the 100th Congress by the gentleman from Illinois [Mr. EVANS] and me, is essentially the same bill that has been before the House of Representatives for over 10 years, has been the subject of many hearings, and has enjoyed widespread support among our House colleagues. In this Congress, H.R. 639 has 149 cosponsors here in the House of Representatives. I offered H.R. 639 as a substitute to H.R. 5288 during the recent House Veterans' Affairs Committee markup, but did not prevail.

On July 11, 1988, S. 11 was passed—for the fifth time—in the Senate. S. 11 is almost identical to the language of H.R. 639, and is very different from the bill we have on the floor today.

H.R. 5288, the bill before us today, has not been the subject of any hearings and is completely different from any of the bills that have ever been introduced on the subject. I, along with many of my colleagues, have very serious problems with it.

However, I do have commitments from the distinguished chairman of the House Veterans' Affairs Committee, the gentleman from Mississippi [Mr. MONTGOMERY], and from Senator CRANSTON, the author of S. 11 and chairman of the Senate Veterans' Affairs Committee, that these problems in H.R. 5288 will be corrected in the conference committee in accordance with the many discussions and conversations I have had with Mr. MONTGOMERY and our Senate counterparts. Among other points, this includes scaling back substantially the article I court created by H.R. 5288, as well as maintaining and strengthening the Board of Veterans' Affairs, which H.R. 5288 would abolish.

Based on this agreement, and in the interest of making progress for veterans on this issue in this Congress, I will support the passage of H.R. 5288 today, and urge my colleagues to do so, too.

I thank the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], and the ranking Republican member of the House Veterans' Affairs, the gentleman from New York [Mr. SOLOMON], for their many courtesies in working with us toward a harmonious solution. I believe that, based on our agreement, legislation that will truly improve the lot of American veterans can and will be enacted by the 100th Congress.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. COELHO] and I thank him for the help he has given us in the Democratic leadership.

Mr. COELHO. Mr. Speaker, although there are a few more steps in the process, today's action on this judicial review legislation promises a historic breakthrough for veterans.

I want to commend several Members for that breakthrough. The gentleman from Mississippi, the chairman of the committee, and the gentleman from California brought to this legislation a strong friendship, and strong views.

They have worked those differences out, and with the leadership of the gentleman from New York, the ranking member of the committee, made judicial review legislation possible.

Two other Members have played a particularly important role in these negotiations, the gentleman from Michigan, the founding chairman of the Vietnam Veterans in Congress, and the gentleman from Illinois, a member of the committee, and the present chair of the Vietnam Veterans in Congress. They both spoke eloquently and forcefully to the need for reform.

As I mentioned there are still a few steps left in the process, but today's action promises to be historic, a testament above all to the leadership of the chairman of the committee and the gentleman from California. This body and our Nation's veterans are once again in their debt.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to a very valued member of the Committee on Veterans' Affairs, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 5288, to provide for an improved system of review of the decisions of the Veterans' Administration with respect to claims for veterans' benefits.

This is indeed a historical event. For a number of years, the Congress has grappled with the issue of judicial review for veterans. Today, we are about to approve legislation which would, once and for all, give America's veterans their day in court.

Mr. Speaker, we can all be proud of the legislation our great chairman, Mr. MONTGOMERY, has brought to the floor today. All of the major veterans' organizations support this legislation.

These service organizations include the American Legion, Veterans of Foreign Wars, Disabled American Veterans, and Amvets.

They represent veterans who served in World Wars I and II, Korea, and Vietnam.

SONNY MONTGOMERY, and our distinguished ranking member, JERRY SOLOMON, have forged a compromise bill which guarantees veterans a day in court without creating an adversarial method of factual decisionmaking at the VA.

The law now states that when there is the same amount of evidence for and against a veteran's case, the veterans, not the Government, is given the benefit of the doubt. This balance, which rightly favors America's veterans, will not be altered.

Our committee has a long history of consideration of court review of VA benefit decisions. In the past, we have rejected flawed legislation to permit wider judicial review of VA decision making.

However, we have also continually examined the procedure and substance of VA decisionmaking in order to determine whether the goals of timeliness, accuracy, and fairness were being met, and when appropriate, we have reported legislation designed to increase the VA's ability to achieve these goals.

The Montgomery-Solomon bill is a continuation of that long tradition, and I strongly request my colleagues to add their voices in support of the compromise on judicial review.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR], former chairman of the Vietnam Veterans in Congress, who has been very helpful in getting this legislation to the floor.

Mr. BONIOR. Mr. Speaker, let me join the chorus of praises this afternoon to all of those who have worked to move this to the floor of the House. It has been many, many years in the making and it is an issue in which I am so very pleased that Members with diverse views and interests could come together.

Someone once said that compromise is indeed the glue which keeps the legislative process moving.

The diligence of so many people on this legislation I think is going to be fruitful when we reach the final step in conference with Senator CRANSTON in the Senate.

Mr. Speaker, I want to particularly thank the chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY], who in all my dealings with him on this legislation over the years has indeed been fair and forthright and in the interest of moving progressive legislation ahead that would benefit the veterans community.

Mr. SOLOMON has my gratitude for his help in moving this forward as well as Mr. HAMMERSCHMIDT.

I particularly want to thank my fellow colleague in the leadership, Mr. COELHO, for taking a special interest in this and getting this on the agenda.

I would like to pay particular recognition to the gentleman from California [Mr. DON EDWARDS], who for many years has shepherded this legislation and worked with the chairman to put this together, and also, of course, LANE EVANS, who is the present chairman of the Vietnam Veterans in Congress and who has played an instrumental, important role in working this out.

Mr. Speaker, I look forward to this bill passing overwhelmingly and working out a reasonable compromise with our Senate colleagues in getting this issue behind us so that we can face other important veterans legislation in the 101st Congress.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I rise in support of this bill. I congratulate the gentleman from New York and the gentleman from Mississippi who brought this bill to the floor. I would say it is one of the few bills that is on the calendar out of some 43 today that is something that we should be considering here in the late hours of the session. It is a valuable piece of legislation.

Those who have put it together and brought it to the floor I think deserve

to be congratulated for their hard work.

But let us understand why it is we will now begin to vote on some of these bills as well. I think it is important to vote on this bill and the bills that follow because normally some of these 43 bills would have been brought up here by unanimous consent.

What does that mean? That means that an awful lot of Members of Congress over the years have been going home and telling people, "Gee, I don't know how that passed. It was done by unanimous consent and none of us had any idea what we were doing."

□ 1245

Well, this year we are going to have some idea of what we are doing because we are going to have to pass each one of these bills by two-thirds in order for them to become law, because I am going to insist that we vote on a lot of these "dogs" and "ponies" that the committees are bringing to the floor and pouring out here, and in that way we will be assured that everybody's vote is recorded on that which is happening at the end of the session.

It is also important, I think, to note that out of 43 bills scheduled for today and 41 bills scheduled for tomorrow—and I understand a rule is going to be gotten so we can have additional suspension bills for even more votes—so far we have no indication we are going to vote on clean air, on technical corrections to the Tax Act, on the drug bill, and on a number of other important matters that this House should be considering. It is a question of priorities around here as well. We are going to be able to vote on a lot of things, a Congressional Award Act, a number of Indian bills, wilderness bills, and forest bills, but somehow we cannot get to the Clean Air Act. We are going to be able to vote on all these things, but somehow we cannot finish the drug bill. We are going to vote on all these things, but we cannot get the Technical Corrections Act to the tax bill finished.

Mr. Speaker, I think as we see the Members of Congress voting on these items over the next several days—and we are going to be doing a lot of voting—we ought to be thinking about our sense of priorities.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of this measure, H.R. 5288, the Veterans' Judicial Review Act, and I want to commend the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of the Committee on Veterans' Affairs, and the ranking minority member of the committee, the gentleman from New York [Mr. SOLOMON], for forging this compromise that finally makes it possible for our Nation's veterans to be entitled to a Federal judicial review. I am pleased too that a consensus of our veterans organizations has been worked out in support of this measure.

I commend the gentleman from California [Mr. EDWARDS] for helping to bring the bill to the floor at this time. As we review the history of veterans benefits, we find that the courts initially had the responsibility for adjudicating claims for veterans benefits.

Therefore, The courts disclaimed any role in such determinations and over the years, Congress opposed any judicial remedy for veterans benefits. Now, finally, we are going to give back to the courts the final review process—a step which is long overdue. I commend the Committee on Veterans' Affairs for addressing this extremely important issue in a way that should aid our veterans, many of whom have a number of disability issues that are continually in contention.

Many of my colleagues are aware that the Veterans' Administration, unlike most other Government agencies, cannot be challenged in court by beneficiaries seeking higher benefits. The Board of Veterans Appeals is the sole and final arbiter in such cases. Although the Senate has adopted legislation several times over the past decade permitting veterans to take the VA to court under limited circumstance, until today, the House has been denied the opportunity to voice their opinion on this complex and controversial issue.

Mr. Speaker, H.R. 5288 establishes an independent Court of Veterans' Appeals to replace the existing Board of Veterans Appeals. The Court of Veterans Appeals will have exclusive jurisdiction to consider all questions on claims for benefits under laws administered by the VA, including factual, legal, and constitutional questions.

Mr. Speaker, hopefully the 100th Congress will be a monumental one for our veterans. After today, both the House and Senate would have adopted judicial review legislation. Let us hope that the conferees will work diligently to allow judicial review to become law before we adjourn, and also move ahead on the conference legislation elevating the VA to a Cabinet-level position.

H.R. 5288 has the endorsement of most of our major veterans organizations. Accordingly, I ask my colleagues to join in support of the Veterans' Judicial Review Act.

Mr. MONTGOMERY. Mr. Speaker, I am very pleased to yield 3 minutes to the gentleman from Illinois [Mr. EVANS], a member of our committee who has been very active in judicial review and who is also chairman of the Vietnam Veterans in Congress.

Mr. EVANS. Mr. Speaker, our current Veterans' Administration adjudication process has a fundamental flaw. VA claims decisions which go against the veteran are not subject to independent review. Veterans do not have the basic right to due process in their dealing with agency decisions.

DON EDWARDS and I introduced H.R. 639 which would repeal the bar to judicial review of decisions of the VA on claims by veterans for VA benefits and provide for reasonable attorney fees so that, if a veteran chooses, legal services can be retained at an affordable rate.

I want to commend DON EDWARDS for his persistent and tireless efforts to bring this issue to Congress' attention.

I also want to thank the chairman of the full Veterans' Affairs Committee, SONNY MONTGOMERY for holding hearings and a markup.

Since the passage of H.R. 5288 by the Veterans' Affairs Committee and Judiciary Committee we have worked together on a compromise which we can all support. With this agreement we will have a bill that will be an improvement for the rights of our veterans.

Veterans will be allowed their day in court with a review of fact before a smaller article I court and they will be provided the right to pay for reasonable attorney fees for legal counsel.

For the last several years, the Vietnam-era Veterans in Congress and Vietnam Veterans of America have pointed to judicial review as the most important step Congress can take to fulfill its promise to those who answered our country's call. For thousands of veterans, the right of judicial review is the only means they have to address the problems and complaints that remain unheard by our Government. The difficult factual issues that are posed by veterans claims will never be properly resolved if we allow the system to put a blindfold on and turn its back.

Our veterans are thankful for the parades, memorials, and tributes recognizing their service. Today, we take a big step in providing their fundamental constitutional right to judicial review.

Mr. FLORIO. Mr. Speaker, I rise in support of the effort to provide judicial review for veterans. Today, we are considering H.R. 5288, introduced by Veterans' Affairs Committee Chairman SONNY MONTGOMERY. I commend the efforts of Chairman MONTGOMERY, as well as Congressman DON EDWARDS and LANE EVANS for helping to bring attention to this important veterans' issue.

As a member of the Veterans' Affairs Committee, I was pleased to support efforts to provide veterans the right that every other resident of this Nation has—the right to pursue justice in a court of law. Current law prohibits veterans from going to the courts to seek review of a Veterans' Administration decision.

I have long held the belief that the Veterans' Administration is no different from any other agency of our Government, in terms of accountability. In order to guarantee that accountability, our Constitution clearly defined the role of the three branches of our Government and provided for court review of actions by the other two branches. With this right comes the right that any individual citizen has to go to court and seek a review.

One would think that our veterans—who have given so much to this country—would have the right, when the VA gives them an unsatisfactory decision to go to court. Any other citizen has that right. Well, it doesn't work that way because a veteran does not have that privilege.

Not only is the veteran limited to pursuing a case within the VA, but that veteran can only pay an attorney up to $10 to represent him. I don't know of too many attorneys who will take a case for 10 bucks.

As things stand, the last place a veteran can go if the VA turns him down on a claim is the Board of Veterans Appeals. This is the same Board that has an error rate of up to 8.4 percent on substantive matters, 18.2 percent on judgmental matters, and 21.5 percent on procedural matters.

This is the same Board that denied 72 percent of the cases in 1980 and 65 percent of the cases in 1987. This is the same Board that has a quota system to complete 40 cases per week in order to get a 5-percent salary bonus. It is the same Board that had some of its members deciding one case every 8 minutes. This is not the justice our veterans deserve.

I am pleased that we have legislation before us that, once the agreed upon changes are made during the conference with the other body, will guarantee the veteran actual judicial review of all VA decisions. I understand that the agreement calls for the creation of a small article I Court of Veterans Appeals to review all veterans questions, under a "clearly erroneous" standard. Further review of regulations and law would be provided by an article III court in the form of the Court of Appeals for the Federal Circuit. Last, the Chairman of the Board of Veterans Appeals, which will be retained, would be nominated by the President and confirmed by the Senate while further reforms of the BVA would be considered by the conference committee.

I wish to express my pleasure, on behalf of the veterans of my community, that this agreement has been reached. I commend my colleagues for their efforts and am pleased to join in this historical effort.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of H.R. 5288, the Veterans Judicial Review Act of 1988. I have long been an active supporter of veterans, for the benefits they were promised and to which they are entitled. I am pleased to see a bill, containing judicial review, finally reach the House floor for final consideration. This bill will give veterans their day in court, without creating an adversarial conflict between veterans and the Veterans' Administration.

H.R. 5288 will abolish the limitations on fees that attorneys may charge a veteran for representing them once the Veterans' Administration has made a final decision on a claim. It will establish an independent Court of Veterans' Appeals in lieu of the existing Board of Veterans Appeals, similar to the Court of Military Appeals and the U.S. Tax Court, to rule on disputes involving the Veterans' Administration and veterans. Finally, this legislation will provide for review by the Court of Appeals for the Federal Circuit of any legal matter relied on by the Court of Veterans Appeals in making a decision in a particular case. This would include constitutional, statutory, and regulatory matters, and interpretations of law. It will allow challenges by organizations or individuals of VA regulations and other interpretive rules under the Administrative Procedure Act by the Court of Appeals of the Federal Circuit.

I am pleased to support H.R. 5288. You may be sure that I will continue to support my fellow veterans, and the benefits to which they are entitled.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, it goes further than some veterans' service organizations want to go. It does not go as far as a couple would like.

But that is what compromise is all about, Mr. Speaker.

We only have a few days left to pass the bill and try to work out our differences with the Senate on S. 11, which has passed the other body. I urge the adoption of the bill. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BROOKS). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5288, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this moton will be postponed.

MAKING A CORRECTON IN THE EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rule and pass the bill (H.R. 5408) to make a correction in the Education and Training for a Competitive America Act of 1988.

The Clerk read as follows:

H.R. 5408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6142(b) of the Education and Training for a Competitive America Act of 1988 is amended by striking "fiscal year 1988" and inserting "fiscal year 1989 and such sums as may be necesary for fiscal years 1990, 1991, and 1992".

The SPEAKER pro tempore. Is a second demanded?

Mr. COLEMAN of Missouri. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5408, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5408. This legislation corrects a technical error that was made in the language of the conference report on H.R. 4848. The conference agreement on the Access Demonstration Program provided an authorization for this program through fiscal year 1992. However, when this bill was reported, this program was authorized for fiscal year 1988 only. H.R. 5408 would restore the authorization for the Access Demonstration Program through fiscal year 1992 as agreed to in conference. This is a nonconstroversial bill that has the support of the chairman of the Committee on Education and Labor.

Mr. Speaker, I yield back the balance of my time.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5408, a bill which I introduced on September 28 which makes a correction in the Education and Training for a Competitive America Act of 1988. H.R. 5408 corrects a technical error made in writing the conference report on the Omnibus Trade and Competitiveness Act of 1988, and I support its consideration under Suspension of the Rules.

In the report, the Access Demonstration Programs were inadvertently authorized for only 1 year, fiscal year 1988, rather than for the 4-year period of authorization, beginning in fiscal year 1989 and ending in fiscal year 1992, which was agreed to by both House and Senate conferees.

This bill makes a simple, purely technical change, correcting the drafting error and providing for the full, 4 years of authorization for the Access

Demonstration Program which was originally intended.

Access is a vitally needed program which is designed to expand the college, vocational, and career opportunities of rural high school students attending schools in agricultural communities which are encountering fundamental economic and social changes.

Access, now a pilot project in northwestern Missouri, provides in-school support services for counselors, teachers, and school administrators, targeting those rural schools with the greatest need, particularly those serving low-income, disadvantaged students. Access has been successful in involving parents, business and community leaders, and the resources of the State universities in providing counseling and educational programs for rural high school students.

This legislation is noncontroversial, making only a technical correction to an unintended drafting error. H.R. 5408 restores the originally agreed upon 4 years of authorization for this important rural educational program. I urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the bill, H.R. 5408.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

TECHNICAL AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4857) to amend the Job Training Partnership Act to make a technical change.

The Clerk read as follows:

Senate amendment: Page 1, after line 11, insert:

SEC. 2. The amendments made by this Act shall apply with respect to funds available for expenditure on or after June 30, 1988.

The SPEAKER pro tempore. Is a second demanded?

Mr. HENRY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes and the gentleman from Michigan [Mr. HENRY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment to H.R. 4857.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, H.R. 4857, a technical amendment to the Job Training Partnership Act, was approved unanimously under suspension by the House earlier this year on June 20, 1988.

This amendment was originally introduced to correct an oversight regarding whether Congress intended the general 3-year rollover cap on JTPA expenditures to apply to program research. Since Congress did not mean to hinder the continuation of multiyear research and other ongoing projects designed to make the program more efficient, the House unanimously approved this technical amendment. The Department of Labor fully approved of the waiver for JTPA sections 452 through 455 of title IV.

The Senate, however, was not able to act in a timely fashion on the amendment before the expiration of the program year, which for the JTPA, falls at the end of June annually. Thus, the only difference in this bill from the verison approved by the House on June 20, this year, is retroactive language making this effective from June 30, 1988, the beginning of this JTPA Program year. The Senate unanimously approved this bill on September 23, and I urge the House to do the same today.

Mr. Speaker, I yield back the balance of my time.

Mr. HENRY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4857—a bill which simply makes a technical correction to the Job Training Partnership Act to address an unforeseen problem that has arisen in the funding or research projects under that act.

And I support its consideration under Suspension of the Rules.

In fact, this legislation was already passed by the House in June of this year—and is only under consideration by the House again due to a technical amendment that was added to the bill by the Senate making its changes to the act retroactive.

When Congress enacted JTPA in 1982, in order to assure effective and timely delivery of services we specifically required that funding which is appropriated for the provision of services be expended during the program year for which the funds are appropriated or during the 2 succeeding years following that program year.

However, in crafting the language of the act, we did not specify that this time limit apply only to moneys appropriated for the delivery of services, and not to funds allotted for research and other activities which result in a product—that often requires more lengthy periods of time.

In a recent interpretation of the law, the Solicitor of Labor determined that as currently written, this time limit set forth in section 161(b) of the act also applies to moneys appropriated for research, which threatens ongoing activities being conducted under contract with the Department of Labor on our national employment training programs.

What this legislation does is amend JTPA to clarify the intent of Congress—that moneys alloted under the act for research and other activities as described under sections 452–455 of JTPA—are not subject to this time limitation as prescribed under section 161(b) of the act.

This legislation will solve the problem currently being encountered due to the Solicitor's recent interpretation of the act, and clarify what was the original intent of Congress.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4857.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on the motion will be postponed.

AMERICA'S SPACE PROGRAM HAS NEW BEGINNING WITH SAFE LANDING OF "DISCOVERY"

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute.)

Mr. NELSON of Florida. Mr. Speaker, America is back in its Space Program. The space shuttle *Discovery* has just landed on the dry lake bed at Edwards Air Force Base in California, marking the conclusion of an almost flawless 4-day mission. It has been a psychological lifting of a burden that we have been carrying for almost 3 years, having suffered through the trauma of the *Challenger* accident, but with a renewed determination of this Nation and its space team.

We are back, and now we are going on to extraordinary accomplishments in America's Space Program.

With the gentleman from Pennsylvania [Mr. WALKER], who is my ranking member on my Space Subcommittee, we have had to fight a battle that was often very difficult in times of budgetary constraint, but we want to take this occasion to thank our colleagues for the support they have shown for our Nation's Space Program at a time when getting support was the most difficult.

Mr. Speaker, now that Americans have reclaimed the high ground, we will go on to an excellent Space Program.

□ 1300

PROMPT PAYMENT ACT OF 1987

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the concurrent resolution (H. Con. Res. 351) to correct errors in the enrollment in the bill S. 328.

The Clerk read as follows:

Senate amendment: Page 2, after line 4, insert:

(5) In section 3902(h)(2)(B) of title 31, United States Code (as added by section 3(c) of the bill), strike out clause (ii) and insert in lieu thereof the following:

"(ii) for a loan agreement, the 30th day beginning after the date of receipt of an application with all requisite documentation and signatures, unless the applicant requests that the disbursement be deferred;

The SPEAKER pro tempore (Mr. MONTGOMERY). Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this amendment simply makes a technical correction in the enrollment of the bill S. 328, the prompt pay bill which passed the House on July 26, 1988, and the Senate on October 9, 1987.

The technical correction is with reference to the due date for loan funds disbursed by the Commodity Credit Corporation. Specifically, the Senate amendment recognizes the applicant's right to request a deferral in the disbursement of those funds. I urge concurrence in the Senate amendment so that prompt pay bill can be cleared from the President's signature.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, shall not take long on this simple concurrent resolution. Chairman BROOKS has already done an excellent job in summarizing what is essentially a technical correction to S. 328, the Prompt Payment Act Amendments of 1988.

Mr. Speaker, S. 328, as amended by the Committee on Government Operations, received unanimous support earlier this year both in committee and here on the House floor. It provided for much needed—and quite extensive—amendments to the original Prompt Pay Act of 1982. I was a sponsor of the original act and the amendments contained in S. 328. These amendments have the complete support of the small business community, the general contractors, the subcontractors and the Office of Management and Budget.

The concurrent resolution before us today simply makes technical changes in the manner in which the Commodity Credit Corporation is handled under the Prompt Payment Act. The necessity for its correction did not become apparent until after the bill was returned to the Senate. There is no controversy that I am aware of and so I urge my colleagues to approve this correction.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and concur in the Senate amendment to the concurrent resolution, (H. Con. Res. 351).

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendment to the Senate bill (S. 496) to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes. The Clerk read as follows:

Senate Amendment to House Amendment: In lieu of the matter proposed to be inserted by the House amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1988".

SEC. 2. MATCHING AGREEMENTS.

Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

"(A) the purpose and legal authority for conducting the program;

"(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

"(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

"(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to—

"(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(ii) applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

"(E) procedures for verifying information produced in such matching program as required by subsection (p);

"(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

"(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

"(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

"(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

"(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

"(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

"(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

"(ii) be available upon request to the public.

"(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

"(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

"(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if—

"(i) such program will be conducted without any change; and

"(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until an officer or employee of such agency has independently verified such information. Such independent verification may be satisfied by verification in accordance with (A) the requirements of paragraph (2); and (B) any additional requirements governing verification under such Federal benefit program.

"(2) Independent verification referred to in paragraph (1) requires independent investigation and confirmation of any information used as a basis for an adverse action against an individual including, where applicable—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use, and

"(C) the period or periods when the individual actually had such asset or income.

"(3) No recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program, (A) unless such individual has received notice from such agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and (B) until the subsequent expiration of any notice period provided by the program's law or regulations, or 30 days, whichever is later. Such opportunity to contest may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program. The exercise of any such rights shall not affect any rights available under this section.

"(4) Notwithstanding paragraph (3), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during the notice period required by such paragraph.

"(q) SANCTIONS.—(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

"(2) No source agency may renew a matching agreement unless—

"(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

"(B) the source agency has no reason to believe that the certification is inaccurate.".

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) NOTICE IN FEDERAL REGISTER.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.".

(b) REPORT TO CONGRESS AND OFFICE OF MANAGEMENT AND BUDGET.—Subsection (r) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended to read as follows:

"(r) REPORT ON NEW SYSTEMS AND MATCHING PROGRAMS.—Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) DATA INTEGRITY BOARDS.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

"(3) Each Data Integrity Board—

"(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

"(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

"(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

"(iii) any changes in membership or structure of the Board in the preceding year;

"(iv) the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

"(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

"(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

"(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

"(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

"(H) may review and report on any agency matching activities that are not matching programs.

"(4)(A) Except as provided in subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective.

"(B) The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

"(C) A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

"(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Com-

mittee on Government Operations of the House of Representatives.

"(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that—

"(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

"(ii) there is adequate evidence that the matching agreement will be cost-effective; and

"(iii) the matching program is in the public interest.

"(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

"(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

"(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver.

"(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations.".

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

"(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

"(II) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

"(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 464 or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

"(v) matches—

"(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

"(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel; or

"(vi) matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term 'non-Federal agency' means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

SEC. 6. FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) AMENDMENT.—Section 552a of title 5, United States Code, is further amended by adding at the end thereof the following:

"(v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.—The Director of the Office of Management and Budget shall—

"(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

"(2) provide continuing assistance to and oversight of the implementation of this section by agencies.".

(b) IMPLEMENTATION GUIDANCE FOR AMENDMENTS.—The Director shall, pursuant to section 552a(v) of title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 6 of the Privacy Act of 1974 is repealed.

SEC. 7. COMPILATION OF RULES AND NOTICES.

Section 552a(f) of title 5, United States Code, is amended by striking out "annually" in the last sentence and inserting "biennially".

SEC. 8. ANNUAL REPORT.

Subsection (s) of section 552a of title 5, United States Code (as redesignated by section 2 of this Act), is amended—

(1) by striking out "ANNUAL" in the heading of such subsection and inserting "BIENNIAL";

(2) by striking out "annually submit" and inserting "biennially submit";

(3) by striking out "preceding year" and inserting "preceding 2 years"; and

(4) by striking out "such year" and inserting "such years".

SEC. 9. RULES OF CONSTRUCTION.

Nothing in the amendments made by this Act shall be construed to authorize—

(1) the establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies;

(2) the direct linking of computerized systems of records maintained by Federal agencies;

(3) the computer matching of records not otherwise authorized by law; or

(4) the disclosure of records for computer matching except to a Federal, State, or local agency.

SEC. 10. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect 9 months after the date of enactment of this Act.

(b) EXCEPTIONS.—The amendment made by sections 3(b), 6, 7, and 8 of this Act shall take effect upon enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from New York [Mr.

HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House passed the computer matching bill on August 1, 1988. The Senate has agreed to the House bill with a few minor amendments. Overall I think the Senate amendments represent improvements to the House bill. I am aware of no controversy over the Senate's changes.

Mr. Speaker, I urge adoption of the Senate amendments.

Mr. Speaker, I ask unanimous consent that a detailed summary of the Senate amendments be included at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROOKS. Mr. Speaker, I include the summary referred to as follows:

The Senate amendment includes minor changes to the House-passed provisions of S. 496, the Computer Matching and Privacy Protection Act of 1988. The amendment, which takes the form of a substitute amendment, alters the following provisions of the House-passed bill:

1. TERMS OF MATCHING AGREEMENTS

The amendment modifies Section 2 of the House-passed version of S. 496, which sets forth elements that must be included in the written matching agreements required by the bill. The amendment modifies this section of the House bill in two respects:

First, the House bill requires that the matching agreements contain procedures for providing individualized notice at the time of application, and periodically thereafter as directed by the Data Integrity Board to applicants for and recipients of financial assistance or payments under Federal benefit programs and to applicants for and holders of positions as Federal personnel, that any information provided by them may be subject to verification through matching programs.

The requirement for notice to such individuals that their records may be matched was also a provision contained in the Senate-passed bill. There is concern, however, that the provision of the House bill that requires individualized notice periodically to all persons who are already receiving Federal benefits or persons who are already holding positions in the Federal government may be prohibitively expensive, especially if this provision is interpreted as requiring agencies to send separate notices to these persons that their records may be matched. Thus, the amendment modifies the House provision to require the matching agreement to include procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board, to these persons that their records may be subject to verification in matching programs.

This amendment is intended to require individualized notice for all applicants for benefits and federal positions. Such notice can be included on the application form or with other notices provided to applicants. The amendment is intended to provide more flexibility for agencies when providing periodic notice to persons who are already receiving benefits or who already hold government positions. The specific procedures for giving periodic notice for a particular matching program should be directed by the Data Integrity Board, subject to guidance from the Office of Management and Budget. Constructive notice, such as publication of the matching program in the Federal Register, is not considered adequate to meet the periodic notice requirement except in very limited circumstances when actual notice would interfere with the essential purpose of the match. The mailing of separate periodic notices is not required by law, but could be required in specific instances either by the Data Integrity Board or through OMB guidance.

Second, the amendment reinstates the provision from the Senate-passed bill that matching agreements contain procedures for the retention and timely destruction of identifiable records created by matching programs. This provision recognizes that agencies must retain the information created by matching programs in order to conduct the matching program, and the verification and followup that is essential to the matching program. This would include the investigation and prosecution that may result from a matching program that uncovers activity that warrants civil or criminal investigation or prosecution. All records created by the match, however, should be destroyed as soon as the records are no longer needed for the match itself and directly related followup.

2. VERIFICATION

The amendment modifies section 2 of the House-passed bill to specify that independent verification of the information produced by the matching program must, at a minimum, meet the independent verification requirements as set forth in this bill. The House-passed version of S. 496 allowed verification to be satisfied by either requirements set forth in the bill or the verification requirements governing the particular Federal benefit program involved in the matching program.

The amendment is intended to assure that agencies will, at a minimum, meet the verification requirements set forth in S. 496, which include independent investigation and confirmation of any information used as a basis for adverse action against an individual. Both versions of the bill include specific elements that must be verified, when applicable to the matching program.

3. DELAY IN TAKING ADVERSE ACTIONS

Both bills prohibit agencies from suspending, terminating, reducing, making a final denial of any financial assistance or payment under a federal benefit program, or from taking any other adverse action against individuals based on the information produced by a matching program until the individual has received a notice of the findings and has been given an opportunity to contest the findings. The House-passed bill prohibits any such adverse action until 60 days after notice and opportunity to contest findings have been given to the individual, while the Senate bill does not specify a period of time for agencies to wait until taking adverse action.

A strict rule that agencies must wait 60 days before taking adverse action is too rigid to be applied to all matching programs covered by the bill, and may result in a significant number of erroneous payments being made to ineligible claimants under Federal benefit programs. In some cases, a 60 day delay may be longer than the waiting period required by the law or regulations governing the specific Federal benefit program involved in the matching program, thus causing confusion to agency officials over which waiting period they must follow prior to taking adverse action.

The amendment alters the delay period to provide that agencies may not take adverse action until the individual has been given notice of the findings of the match and an opportunity to contest the findings of the match and until the subsequent expiration of the notice period provided by the law or regulation governing the program, or 30 days after giving a notice of findings and of the opportunity to contest findings, whichever is later. This provision will shorten the delay to minimize the danger of allowing erroneous payments to continue, while ensuring a minimal notice period of 30 days, which is necessary to comport with due process rights. For programs in which a longer notice and contest period is allowed, this longer period would govern.

4. COST BENEFIT ANALYSIS

The House bill, but not the Senate-passed bill, requires agencies to submit a cost-benefit analysis of the proposed matching program before a matching agreement can be approved by the Data Integrity Board. A waiver of the cost-benefit analysis requirement is available from the Data Integrity Board in accordance with guidelines prescribed by OMB.

Mandating a pre-match cost-benefit analysis is inappropriate for those matching programs that are required by law. Thus, the Senate amendment specifically exempts these matches from the up-front cost-benefit analysis requirement.

Since the costs of matching programs should be considered for those matches that will be repeated to determine if the matching program is truly cost-effective, the Senate amendment further specifies that any subsequent matching agreement for a matching program specifically required by statute will not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted.

5. CONFORMING AND TECHNICAL AMENDMENTS

The Senate amendment makes clarifying and conforming amendments, such as:

Providing that any reports on matching activities conducted outside the scope of this bill may present information on an aggregate basis in order to protect counterintelligence investigations, in addition to protecting law enforcement matching programs (as specified in the House bill);

Adding matches performed to produce background checks for security clearances of Federal contractor personnel to the list of matching programs exempted from the bill; and

Including any program administered by a state on behalf of the Federal government within the definition of "federal benefit program" in order to clarify that state-administered Federal benefit programs, such as AFDC and Medicaid, are included within this definition.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, these Senate amendments are consistent with and represent refinements of the House legisla-

tion. I urge my colleagues to support the Senate amendments.

Mr. Speaker, computer matching is a vital tool in discovering waste, fraud, and abuse.

It was a computer match that led to last week's indictment of 27 U.S. pilots. These pilots allegedly lied about drug- or alcohol-related convictions in order to get—or keep—their licenses.

According to Saturday's New York Times, the FAA matched the names of people applying for pilot medical certificates with the national driver registry. This registry lists people whose driver's licenses were suspended or revoked for alcohol-related violations.

Subsequently, the Department of Transportation matched pilot applications against FBI alcohol and drug conviction records.

As a result of the Department of Transportation's efforts, a Florida grand jury indicted those 27 pilots.

Clearly, responsible computer matching is in the public good.

The Government Operations Committee approved its version of the legislation by voice vote. These Senate amendments are consistent with and represent refinements of the House legislation. I urge my colleagues to support the Senate amendments.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. My Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and concur in the Senate amendment to the House amendment to the Senate bill, S. 496.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

TRANSFER OF CONTROL OF GENERAL ACCOUNTING OFFICE BUILDING

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5052) to amend title 31 of the United States Code to provide for a transfer of control of the General Accounting Office Building and to improve the administration of the General Accounting Office, as amended.

The Clerk read as follows:

H.R. 5052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROPERTY MANAGEMENT AUTHORITY OF THE COMPTROLLER GENERAL.

Chapter 7 of title 31, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VI—Property Management

"§ 781. Authority over the General Accounting Office Building

"(a) The Comptroller General shall have exclusive custody and control over the building located at 441 G Street, N.W., in the District of Columbia, that is generally known as the General Accounting Office Building, including operation, maintenance, protection, alteration, repair, and assignment of space therein. Such custody and control shall also extend to any machinery, equipment, spare parts and tools located in and usable for the operation and maintenance of the General Accounting Office Building. For the purposes of securing approval of any prospectus detailed proposed alterations of the General Accounting Office Building, as required by section 7 of the Public Buildings Act of 1959, as amended (40 U.S.C. 606), the Comptroller General shall perform the functions assigned to the Administrator of General Services by that section.

"(b) Upon request of the Comptroller General, the Administrator of General Services shall provide, to the extent resources are available, any necessary services for the protection of the property and persons in the General Accounting Office Building, including the provision of special police, responding to and investigating incidents, and the monitoring of the perimeter security system. Such services may be provided with or without reimbursement as the Comptroller General and the Administrator may agree.

"(c)(1) The Comptroller General is authorized to enter into agreements or contracts to acquire property or services on such terms and conditions and in such a manner as he deems necessary and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); except that the Comptroller General may not acquire real property unless specifically authorized by law. In exercising the authority granted by this section, the Comptroller General shall obtain full and open competition in accordance with the principles and purposes of the Competition of Contracting Act of 1984.

"(2) To the extent that funds are otherwise available for obligation, agreements or contracts for utility services may be made for periods not exceeding 10 years.

"(3) The Comptroller General may make advance, progress, and other payments which relate to agreements or contracts entered into under authority of this section, without regard to the provisions of section 3324(a) and (b) of this title.

"§ 782. Leasing of space in the General Accounting Office Building

"The Comptroller General is authorized to lease or otherwise provide space and services with the General Accounting Office Building to persons, both public and private, or to any department, agency or instrumentality of the United States Government upon such terms and conditions as the Comptroller General deems necessary to protect the public interest. The Comptroller General shall establish a rental rate for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the General Accounting Office Building. Additionally, the Comptroller General may make available, on occasion, or may lease at such rates and on such other terms and conditions as the Comptroller General deems to be in the public interest, auditoriums, meeting rooms, and lobbies of the General Accounting Office Building to persons, firms, or organizations engaged in cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 612a). The Comptroller General will consult with the Administratior of General Services and will give priority to Federal agencies in filling available space within the General Accounting Office Building. Payments for space or services may be made in advance or by way of reimbursement and shall be deposited to a special account and shall be available for expenditure for operation, maintenance, protection, alteration, or repair of the General Accounting Office Building in such amounts as are specified in annual appropriation Acts without regard to fiscal year limitations.

"§ 783. Rules and regulations

"(a) The Comptroller General is authorized to make all needful rules and regulations for the government of the General Accounting Office Building, and to annex to such rules and regulations such reasonable penalties, within the limits prescribed in subsection (b), as will ensure their enforcement. Such rules and regulations shall be posted and kept posted in a conspicuous place on such Federal property.

"(b) Whoever shall violate any rule or regulation promulgated pursuant to subsection (a) shall be fined not more than $500 or imprisoned not more than 6 months, or both.".

SEC. 2. CLERICAL AND CONFORMING AMENDMENTS.

"(a) CLERICAL AMENDMENT.—The table of subchapters for chapter 7 of title 31, United States Code, is amended by inserting after the item relating to subchapter V the following new subchapter:

"Subchapter VI—Property Management

"Sec.
"781. Authority over the General Accounting Office Building.
"782. Leasing of space in the General Accounting Office Building.
"783. Rules and regulations.".

"(b) CONFORMING AMENDMENTS.—Section 702 of title 31, United States Code, is amended—

"(1) by striking out subsection (c); and

"(2) by redesignating subsection (d) as subsection (c).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes and the gentleman from Utah [Mr. NIELSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the headquarters building of the General Accounting Office currently is under the custody and control of the General Services Administration. H.R. 5052 will transfer custody and control over that building to the Comptroller General of the United States. In addition, it provides

authority and procedures that will allow the Comptroller General to carry out his responsibilities for management of this building.

At hearings conducted by our Government Activities and Transportation Subcommittee, GAO testified that it has sought to gain control over its headquarters building for a number of years. Its argument is based on two points:

First, GAO believes that it can better provide for care, maintenance, repair, and rehabilitation of the building. For instance, the building currently has a serious problem involving the removal and containment of asbestos. It will require outlays of several million dollars to cure this problem. While GAO would like to budget for this work itself and believes that it can do so on an expedited basis, GSA would have to fit the work into its own budgeted asbestos removal program.

The second point is the inappropriateness of the General Accounting Office, which has the mandate of overseeing operations of the executive branch budget and priority setting.

Both of these points argue in favor of transferring custody and control of the headquarters building to the Comptroller General. Such action will also be consistent with GSA's large-scale program of delegating to occupant agencies the operation of major office buildings.

Mr. Speaker, I urge adoption of H.R. 5052.

Mr. Speaker, I yield back the balance of my time.

Mr. NIELSON of Utah. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 5052, legislation that will transfer from GSA to GAO control of the General Accounting Office Building and the land on which it sits. This bill passed the Government Activities and Transportation Subcommittee and the full Government Operations Committee by unanimous votes. It makes sense that GAO, as a legislative branch agency, have control over its building space, and I urge that my colleagues join me in supporting this legislation.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5052, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered and on the two preceding matters, Senate amendments to House Concurrent Resolution 351 and S. 496.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING SECRETARY OF THE AIR FORCE AUTHORITY TO CONVEY CERTAIN LAND

Mr. HUTTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5291) to provide the Secretary of the Air Force with authority to convey certain land.

The Clerk read as follows:

H.R. 5291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND EXCHANGE, OKALOOSA COUNTY, FLORIDA

(a) TRANSFER.—Subject to subsections (b) through (h), the Secretary of the Air Force may convey to the State of Florida all right, title, and interests of the United States in and to four contiguous parcels of real property (and improvements thereon) described as parcels 5 through 8, respectively, in Air Force Final Disposal Directive AF/RED 84-171 and consisting of approximately 156 acres located in Okaloosa County, Florida.

(b) CONSIDERATION.—(1) In consideration for the conveyance by the Secretary under subsection (a), the State of Florida shall convey to the United States all right, title, and interest of such State in and to a tract of real property (and improvements thereon) consisting of approximately 85.8 acres and located south of United States Highway 98 near the west end of the Destin Bridge, Destin, Florida, adjacent to the property of Eglin Air Force Base. Such conveyance shall specifically include any claim of the State of Florida to any lands included in such tract as may have been created by natural accretion or dumping of dredge spoil, and the State shall specifically covenant not to claim any lands abutting such tract that may be created by natural accretion of dumping of dredge spoil in the future.

(2) In addition to the consideration described in paragraph (1), Okaloosa County, Florida, shall convey to the United States all right, title, and interest it may have in the property described in such paragraph, including claims based on natural accretion or dumping of dredge spoil in the past or that may occur in the future.

(c) CONTINUED PUBLIC ACCESS.—The Secretary may take appropriate action to ensure that public access for recreational purposes to the property described in subsection (b) is continued in the manner and to the extent permitted on the date of the enactment of this Act.

(d) EXISTING EASEMENTS.—Existing easements for roads and public utilities may be excepted from any conveyance under this Act, as determined by the Secretary.

(e) EXACT DESCRIPTION OF LAND.—The exact acreages and legal descriptions of the real property to be conveyed under this Act shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by the State of Florida.

(f) REVERSION FOR NONUSE.—(1) The Secretary shall, as part of the conveyance of the property described in subsection (a), provide that, at the end of the 10-year period beginning on the date of such conveyance, all of such property not being used for educational purposes at the end of such period shall revert to the United States.

(2) Any property that reverts as described in paragraph (1) shall be transferred to the Department of Agriculture, United States Forest Service, without reimbursement.

(g) TRANSFER TO NATIONAL PARK SERVICE.—Any of the land, or land accreting thereto, conveyed to the United States under subsection (b) that the Secretary determines is not needed by any department or other agency of the Department of Defense shall be transferred to the Department of the Interior, National Park Service, without reimbursement, for incorporation into the Gulf Islands National Seashore.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. HUTTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill provides the Secretary of the Air Force authority to convey land between his Department and the State of Florida. Conveyance of the 156 acres of excess land at Eglin Air Force Base would permit the construction of joint use higher educational facilities for the Okaloosa-Walton Community College [OWCC] and the University of West Florida [UWF].

Florida legislative appropriations have a sunset provision which require the construction to begin prior to the beginning of the 101st Congress, hence, passage of this bill is necessary during this Congress.

Air Force officials have approved of and support this exchange. The 156 acres are a part of the 11 parcels listed in Air Force Final Disposal Directive AF/RED 84-171, parcels 5-8.

MAI appraisals for the parcels to be exchanged show the value of the 85.8-acre gulf-front parcel to be more than twice as valuable as the 156-acre parcel of Air Force land. The MAI appraisal for the Air Force land is $2.5 million, the MAI appraisal for the State-owned gulf-front property is $6 million.

The Air Force desires to have the 85.8 acres of gulf-front property to add to the NCO Beach Club and other fa-

cilities adjacent to it. Additionally, it completes the ownership of the entire eastern end of the island providing greater security for the Air Force.

The legislation provides reverter clauses to be placed on the respective parcels to have the 85.8 acres to become part of the Gulf Island National Seashore and the 156 acres to become part of the Choctawhatchee National Forest if they are not used for the purposes described in the act.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I rise in support of H.R. 5291.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I thank the gentleman from Arizona [Mr. STUMP] for yielding.

From the point of view of the minority and the Subcommittee on Military Construction, we have viewed this legislation; it was introduced by the honorable gentleman from Florida [Mr. HUTTO], and we are satisfied that it is in the best interest of the U.S. Government and the Air Force to make this transfer. Not so incidentally it will have to be done in the 100th Congress, if we are going to get on with the construction, and we have no problems at all with this, and we salute the gentleman from Florida [Mr. HUTTO] for having worked through this legislative process in a most timely fashion.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUTTO. Mr. Speaker, I appreciate the comments of the gentleman from New York [Mr. MARTIN] and the gentleman from Arizona [Mr. STUMP], and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. HUTTO] that the House suspend the rules and pass the bill, H.R. 5291.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HUTTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 4174, SBA REAUTHORIZATION AND AMENDMENT ACT OF 1988

Mr. LAFALCE submitted the following conference report and statement on the bill (H.R. 4174) to amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women, and for other purposes:

CONFERENCE REPORT (H. REPT. 1029)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4174) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL REAUTHORIZATION PROVISIONS

SEC. 101 PROGRAM LEVELS AND AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking the first sentence of subsection (a), by striking subsections (b) through (x), by redesignating subsections (y) and (z) as subsections (b) and (c), and by adding the following new subsections:

"(d) The following program levels are authorized for fiscal year 1989:

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $62,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $17,000,000 in loans as provided in paragraph (10), $24,000,000 in loans as provided in paragraph (11), and $21,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act;

"(2) for the programs authorized by section 7(a) of this Act and section 504 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,407,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $65,000,000 in loans as provided in paragraph (11), $60,000,000 in loans as provided in paragraph (12), and $460,000,000 in loans as provided in paragraph (13) and guarantees of deventures as provided in section 504;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $39,000,000 in direct purchases of debentures and preferred securities and to make $272,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,500,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is not authorized to enter into any guarantees.

"(e) There are authorized to be appropriated to the Administration for fiscal year 1989 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958, including $228,000,000 for salaries and expenses of the Administration, of which up to $2,600,000 may be available for the operations of the Service Corps of Retired Executives. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(f) The following program levels are authorized for fiscal year 1990:

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $65,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $18,000,000 in loans as provided in paragraph (10), $25,000,000 in loans as provided in paragraph (11), and $22,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act;

"(2) for the programs authorized by section 7(a) of this Act and section 504 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,543,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $68,000,000 in loans as provided in paragraph (11), $62,000,000 in loans as provided in paragraph (12), and $478,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 504;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $283,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,560,000,000; and

"(5) for the programs authorized in section 404 and 405 of the Small Business Investment Act of 1958, the Administration is not authorized to enter into any guarantees.

"(g) There are authorized to be appropriated to the Administration for fiscal year 1990 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958, including $238,000,000 for salaries and expenses of the Administration, of which $2,700,000 shall be available for the operations of the Service Corps of Retired Executives. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(h) There are authorized to be appropriated to the Administration for fiscal year 1991 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.".

SEC. 102. FORM SIMPLIFICATION AND PREFERRED FINANCING.

(a) CERTIFIED LOAN PROGRAM.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding to subsection (a) the following new paragraph:

"(19) During fiscal years 1989, 1990 and 1991, in addition to the preferred lenders program authorized by the provision in section 5(b)(7), the Administration is authorized to establish a certified loan program for lenders who establish their knowledge of Administration laws and regulations concerning the loan guarantees program and their proficiency in program requirements. In order to encourage certified lenders and preferred leaders to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, the Administration (A) shall develop and shall allow participating lenders in the certified loan program and in the preferred loan program to solely utilize a uniform and simplified loan form for such loans and (B) shall allow such lenders to retain one-half of the fee collected pursuant to section 7(a)(16) on such loans: Provided, That a participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless such excess amount was not approved under the provisions of this paragraph. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or if the Administration determines that the loss experience of the lender is excessive as compared to other lenders: Provided further, That any suspension or revocation of the designation shall not affect any outstanding guarantee: And, provided further, That the Administration may not reduce the per centum of guarantee as a criterion of eligibility for participation in this program, except as otherwise provided by law."; and

(b) REPORTS.—The Administration shall take appropriate steps to expand participation in the certified loan program and shall report to the Small Business Committees of the Senate and the House of Representatives on the amount of loans approved and the amount of losses sustained under the provisions of section 7(a)(19) of the Small Business Act. An interim report shall be submitted not later than one year after date of enactment of this Act and a final report shall be submitted not later than 18 months after the date of enactment.

SEC. 103. GUARANTEE PERCENTAGES FOR PREFERRED LENDERS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by inserting after the word "thereto" in the second proviso, ", but any such reduction shall not exceed five points".

SEC. 104. EXAMINATIONS OF SMALL BUSINESS INVESTMENT COMPANIES.

Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by striking the second sentence of subsection (b) and by adding the following new subsection to such section:

"(c) Each small business investment company shall be examined at least every two years in such detail so as to determine whether or not—

"(1) it has engaged solely in lawful activities and those contemplated by this title;

"(2) it has engaged in prohibited conflicts of interest;

"(3) it has acquired or exercised illegal control of an assisted small business;

"(4) it has made investments in small businesses for not less than four years in the case of section 301(d) licensees and in all other cases, not less than five years;

"(5) it has invested more than 20 per centum of its capital in any individual small business;

"(6) it has engaged in relending, foreign investments, or passive investments; or

"(7) it has charged an interest rate in excess of the maximum permitted by law:

Provided, That the Administration may waive the examination (A) for up to one additional year if, in its discretion, it determines such a delay would be appropriate, based upon the amount of debentures being issued by the company and its repayment record, the prior operating experience of the company, the contents and results of the last examination and the management expertise of the company, or (B) if it is a company whose operations have been suspended while the company is involved in litigation or is in receivership.".

SEC. 105. MINIMUM LIFE OF LIMITED PARTNERSHIP SMALL BUSINESS INVESTMENT COMPANIES.

Section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681) is amended by striking from subsection (a) "has succession for a period of not less than thirty years unless sooner dissolved by its shareholders or partners" and inserting in lieu thereof ", if incorporated, has succession for a period of not less than thirty years unless sooner dissolved by its shareholders, and if a limited partnership, has succession for a period of not less than ten years,".

SEC. 106. PERIODIC SMALL BUSINESS INVESTMENT COMPANY DEBENTURE SALES.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"PERIODIC ISSUANCE OF GUARANTEES AND TRUST CERTIFICATES

"SEC. 322. The Administration shall issue guarantees under section 303 and trust certificates under section 321 at periodic intervals of not less than every three months and shall do so at such shorter intervals as it deems appropriate, taking into consideration the amount and number of such guarantees or trust certificates.".

(b) CLERICAL AMENDMENT.—The table of sections for title III is amended by adding the following new item:

"Sec. 322 Periodic issuance of guarantees and trust certificates.".

SEC. 107. GENERAL ACCOUNTING OFFICE EVALUATION OF THE SERVICE CORPS OF RETIRED EXECUTIVES.

The Comptroller General shall, not later than December 1, 1989, transmit a report to the Small Business Committees of the Senate and the House of Representatives on

the functions being performed by volunteers in the Service Corps of Retired Executives and the Active Corps of Executives. Such report shall include his evaluation of the programs and shall include conclusions and recommendations concerning the efficiency and cost effectiveness of such volunteers.

SEC. 108. PARTICIPATION IN THE SMALL BUSINESS INNOVATION AND RESEARCH PROGRAM.

Subsection (j) of section 9 of the Small Business Act (15 U.S.C. 638(j)) is amended as follows:

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding the following new paragraphs:

"(6) standardized and orderly withdrawal from program participation by an agency having a SBIR program; at the discretion of the Administration, such directives may require a phased withdrawal over a period of time sufficient in duration to minimize any adverse impact on small business concerns; and

"(7) the voluntary participation in a SBIR program by a Federal agency not required to establish such a program pursuant to subsection (f).".

SEC. 109. SBA PROGRAM DATA AND EVALUATION.

The Small Business Administration shall develop a comprehensive system to systematically acquire data on the number of small businesses which participate in Administration programs, the nature and extent of their participation, the type of business, the results of such participation, and such other information as the Administration deems appropriate. It shall also include the number and dollar amount of guaranteed loans by lender, and the interest rate thereon, and the number and dollar amount of sales in the secondary market both by lender and by purchaser. The data shall be compiled and maintained to permit a statistically valid analysis and computation and evaluation of costs and benefits. The Administration shall submit a report to the Small Business Committees of the Senate and the House of Representatives not later than March 31, 1989, such report to include its conclusions and recommendations and estimate of the costs involved in implementing such a program and shall implement the system for all program assistance made available on or after October 1, 1989.

SEC. 110. BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

Subsection (D) of section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by striking the term "unrestricted" from subparagraph (D) of paragraph (2) each place such term appears;

(2) by amending subparagraph (E) of paragraph (2) to read as follows:

"(E) have access to procurement records and other data of the procurement center commensurate with the level of such representative's approved security clearance classification,";

(3) by amending paragraph (3) to read as follows:

"(3) A breakout procurement center representative is authorized to appeal the failure to act favorably on any recommendation made pursuant to paragraph (2). Such appeal shall be filed and processed in the same manner and subject to the same conditions and limitations as an appeal filed by the Administrator pursuant to subsection (a).";

(4) by amending paragraph (6) to read as follows:

"(6) For purposes of this subsection, the term 'major procurement center' means a procurement center that, in the opinion of the Administrator, purchases substantial dollar amounts of other than commercial items and which has the potential to incur significant savings as the result of the placement of a breakout procurement center representative"; and

(5) by adding the following new paragraph:

"(7)(A) At such times as the Administrator deems appropriate, the breakout procurement center representative shall conduct familiarization sessions for contracting officers and other appropriate personnel of the procurement center to which such representative is assigned. Such sessions shall acquaint the participants with the provisions of this subsection and shall instruct them in methods designed to further the purposes of such subsection.

"(B) The breakout procurement center representative shall prepare and personally deliver an annual briefing and report to the head of the procurement center to which such representative is assigned. Such briefing and report shall detail the past and planned activities of the representative and shall contain such recommendations for improvement in the operation of the center as may be appropriate. The head of such center shall personally receive such briefing and report and shall, within 60 calendar days after receipt, respond, in writing, to each recommendation made by such representative.".

SEC. 111. AMENDMENTS RELATING TO REVOLVING FUNDS.

(a) TECHNICAL AMENDMENT.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by striking from paragraph (1) "III" and inserting in lieu thereof "III, IV"; and

(2) by striking from paragraph (2) "III" and inserting in lieu thereof "III, IV"; and

(b) REPEALER.—Section 403 of the Small Business Investment Act of 1958 (15 U.S.C. 694) is hereby repealed. Any moneys remaining in the Lease Guarantee Fund on the date of enactment of this Act shall be transferred to the Small Business Administration's business loan and investment fund.

(c) POLLUTION CONTROL GUARANTEED LOANS.—Section 7(a)(12) of the Small Business Act (15 U.S.C. 636(a)(12) is amended—

(1) by inserting "(A)" after "(12)"; and

(2) by adding at the end thereof the following new subparagraph:

"(b) The Administration may provide deferred participation loans under this subsection to finance the planning, design, or installation of pollution control facilities for the purposes set forth in section 404 of the Small Business Investment Act of 1958. Notwithstanding the limitation expressed in paragraph (3) of this subsection, a loan made under this paragraph may not result in a total amount outstanding and committed to a borrower from the business loan and investment fund of more than $1,000,000.".

(d) TECHNICAL AMENDMENTS TO SECTION 505.—(1) Section 505 of the Small Business Investment Act of 1958 is amended by striking from subsection (a) "all of a" and by inserting in lieu thereof "all or a".

(2) Such section is further amended by inserting the following title at the beginning of such section:

"POOLING OF DEBENTURES".

(3) The table of contents for title V of such Act is amended by adding after the item relating to section 504 the following new item:

"Sec. 505. Pooling of debentures.".

SEC. 112. DEVELOPMENT COMPANY LOAN PROGRAM.

(a) PERMANENT EXTENSION OF PILOT PROGRAM.—Section 504 of the Small Business Investment Act of 1958 (15 U.S.C. 697a) is amended to read as follows:

"PRIVATE DEBENTURE SALES

"SEC. 504. (a) Notwithstanding any other law, rule, or regulation, the Administration shall sell to investors, either publicly or by private placement, debentures pursuant to section 503 of this title as follows:

"(1) Of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed $200,000,000.

"(2) Of the program levels otherwise authorized by law for each of fiscal years 1987 and 1988, an amount not to exceed $425,000,000.

"(3) All of the program levels authorized for fiscal year 1989 and subsequent fiscal years.

"(b) Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire—

"(1) any obligation the payment of principal or interest on which at any time has been guaranteed in whole or in part under section 503 of this title and which is being sold pursuant to the provisions of the program authorized in this section;

"(2) any obligation which is an interest in any obligation described in paragraph (1); or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) The table of contents for title V of such Act is amended by adding after the item relating to section 503 the following new item:

"Sec. 504. Private debenture sales.".

(c) COMMERCIAL LOAN INTEREST RATE.—

(1) IN GENERAL.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and

(B) by inserting after subsection (b) the following new subsection:

"(c)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans from certified development companies to small business concerns.

"(2) Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any commercial loan which funds any portion of the cost of the project financed pursuant to this section or section 503 which is not funded by a debenture guaranteed under this section shall be a rate which is established by the Administrator of the Small Business Administration under the authority of this section.

"(3) The Administrator is authorized and directed to establish and publish quarterly a maximum legal interest rate for any commercial loan which funds any portion of the cost of the project financed pursuant to this section or section 504 which is not funded by a debenture guaranteed under this section.".

(2) REPEALER.—The amendment made by paragraph (1) shall be repealed on October 1, 1990.

SEC. 113. SECONDARY MARKET IN DEVELOPMENT COMPANY LOANS.

Section 5 of the Small Business Act (15 U.S.C. 634) is amended by striking from subsection (g) "except those" and by inserting in lieu thereof "except separate trust certificates shall be issued for loan approved".

SEC. 114. DEVELOPMENT COMPANY DEBENTURES.

Section 503(a)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 697(a)(2)) is amended by inserting before the period at the end thereof the following: ": Provided, That the Administration shall not decline to issue such guarantee when the ownership interests of the small business concern and the ownership interests of the property to be financed with the proceeds of a loan made pursuant to subsection (b)(1) are not identical because one or more of the following classes of relatives have an ownership interest in either the small business concern or the property: father, mother, son, daughter, wife, husband, brother, or sister: Provided further, That the Administrator or his designee has determined on a case-by-case basis that such ownership interest, such guarantee, and the proceeds of such loan, will substantially benefit the small business concern".

SEC. 115. DEVELOPMENT COMPANY LOANS—POLICY.

(a) POLICY.—Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and by adding the following new subsection prior thereto:

"(a) The Congress hereby finds and declares that the purpose of this title is to foster economic development in both urban and rural areas by providing long term financing for small business concerns through the development company program authorized by this title. In order to carry out this objective, the Administration is hereby directed to place greater emphasis on the needs of rural areas and the promotion of the development company program in such areas, and is further directed to develop a plan for greater outreach of procurement and export trade seminars in such areas. As used in this title, the term 'rural areas' means those localities with populations of less than 20,000.".

(b) TECHNICAL AMENDMENTS TO THE SECTION.—(1) Title V of such Act is further amended by inserting the following heading at the beginning of section 501:

"STATE DEVELOPMENT COMPANIES".

(2) The table of contents of such Act is amended by inserting before the item relating to section 502 the following new item:

"Sec. 502. State development companies.".

SEC. 116. DEVELOPMENT COMPANY LOANS—LEASED PREMISES.

(a) IN GENERAL.—Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is further amended by adding the following at the end thereof:

"(4) If the project is to construct a new facility, up to 33 percentum of the total project may be leased, if reasonable projections of growth demonstrate that the assisted small business concern will need additional space within three years and will fully utilize such additional space within ten years.".

(b) Technical Amendments to the section.—(1) Title V of such Act is further amended by inserting the following heading at the beginning of section 502:

"LOANS FOR PLANT ACQUISITION, CONSTRUCTION, CONVERSION AND EXPANSION".

(2) The table of contents of such Act is amended by inserting before the item relating to section 503 the following new item:

"Sec. 502. Loans for plant acquisition, construction, conversion, and expansion.".

SEC. 117. DEVELOPMENT COMPANIES—STAFF AND OVERHEAD.

(a) STAFF.—Section 503(d) of the Small Business Investment Act of 1958 (15 U.S.C. 697(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end thereof the following new paragraph:

(2) "A company in a rural area shall be deemed to have satisfied the requirements of a full-time professional staff and professional management ability if it contracts with another certified development company which has staff and management ability and which is located in the same general area to provide such services.".

(b) OVERHEAD.—The Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"RESTRICTIONS ON DEVELOPMENT COMPANY ASSISTANCE

"SEC. 506. Notwithstanding any other provision of law: (1) on or after May 1, 1991, no development company may accept funding from any source, including but not limited to any department or agency of the United States government, if such funding includes any conditions, priorities or restrictions upon the types of small businesses to which they may provide financial assistance under this title or if it includes any conditions or imposes any requirements, directly or indirectly, upon any recipient of assistance under this title; and (2) before such date, no department or agency of the United States government which provides funding to any development company shall impose any condition, priority or restriction upon the type of small business which receives financing under this title nor shall it include any condition or impose any requirement, directly or indirectly, upon any recipient of assistance under this title: Provided, That the foregoing shall not affect any such conditions, priorities or restrictions if the department or agency also provides all of the financial assistance to be delivered by the development company to the small business and such conditions, priorities or restrictions are limited solely to the financial assistance so provided.".

(c) REPORT.—Not later than 180 days after the effective date of this Act, the Small Business Administration shall report to the Small Business Committees of the Senate and the House of Representatives on the amount and nature of all financial assistance or income being received by certified development companies from sources other than the Small Business Administration or those being assisted by the programs authorized in title V of the Small Business Investment Act of 1958. The report shall include any conditions or restrictions imposed on the development companies due to such financial assistance, a comparison of all sources of income which comprise the development companies' budgets, an analysis of the financial impact of various sources of financial assistance, and the feasibility of restricting assistance received from the Federal government solely to Small Business Administration funding.

(d) The table of contents of such Act is amended by inserting the following new item at the end thereof:

"Sec. 506. Restrictions on Development Company Assistance.".

SEC. 118. DISASTER LOAN POLICY.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding the following new subsection:

"(g) In administering the disaster loan program authorized by section 7 of this Act, to the maximum extent possible, the Administration shall provide assistance and counseling to disaster victims in filing applications, providing information relevant to loan processing, and in loan closing and prompt disbursement of loan proceeds and shall give the disaster program a high priority in allocating funds for administrative expenses.".

SEC. 119. DEFINITION OF DISASTERS.

(a) NATURAL DISASTERS.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by striking from paragraph (1) of subsection (b) "floods, riots or civil disorders, or other catastrophes:" and inserting in lieu thereof "natural or other disasters:".

(b) IN GENERAL.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended—

(1) by adding the following new subsection:

"(k) For the purposes of this Act, the term "disaster" means a sudden event which causes severe damage including, but not limited to, floods, hurricanes, tornadoes, earthquakes, fires, explosions, volcanoes, windstorms, landslides or mudslides, tidal waves, ocean conditions resulting in the closure of customary fishing waters, riots, civil disorders or other catastrophes, except it does not include economic dislocations,"; and

(2) by redesignating the second subsection "(j)" as subsection "(l)".

SEC. 120. DISASTER ASSISTANCE.

(a) ECONOMIC INJURY.—Section 7(c) of the Small Business Act (15 U.S.C. 636(c)) is amended by adding the following new paragraph:

"(7) The Administration shall not withhold disaster assistance pursuant to this paragraph to nurseries who are victims of drought disasters. As used in section 7(b)(2) the term "an area affected by a disaster" includes any county, or country contiguous thereto, determined to be a disaster by the President, the Secretary of Agriculture or the Administrator of the Small Business Administration."

(b) INTEREST RATES.—Section 7(c) of the Act is further amended by striking "business concern" from paragraph (5)(C) and inserting in lieu thereof "business or other concern, including agricultural cooperatives,".

SEC. 121. DISASTER MITIGATION ACTIONS.

Section 7 of the Small Business Act (15 U.S.C. 636) is further amended by inserting prior to the semicolon at the end of subsection (b)(1)(A) the following: ": And provided further, That the Administration may increase the amount of the loan by up to an additional 20 per centum if it determines such increase to be necessary or appropriate in order to protect the damaged or destroyed property from possible future disasters by taking mitigating measures, including, but not limited to, construction of retaining walls and sea walls, grading and contouring land, relocating utilities and modifying structures".

SEC. 122. UNSECURED DISASTER LOANS.

Section 7(c) of the Small Business Act (15 U.S.C. 636(c)) is further amended by striking from paragraph (6) "refinancing." and inserting in lieu thereof "refinancing: Provided further, That the Administration shall not require collateral for loans of $10,000 or less which are made under paragraph (1) of subsection (b).".

SEC. 123. NATIONAL DIRECTOR OF SMALL BUSINESSES

The Small Business Administration shall undertake a study to determine the feasibility and need for developing an expanded national director of small businesses to effectuate fully the purposes of Section 145(a) of the Small Business Act. The Agency shall examine existing resources such as the PASS system, the advocacy data base, and other resources to ascertain the costs and other requirements necessary to effectuate such a directory, including a concern's capability, standard industrial codes and Federal supply numbers identifying such capability, and other data deemed relevant. The Small Business Administration shall submit a report to the Small Business Committees of the Senate and the House of Representatives not later than June 1, 1989. This report shall include conclusions and recommendations and an estimate of the costs involved in implementing such a system.

SEC. 124. INELIGIBILITY OF SMALL BUSINESS ENGAGED IN BUSINESS WITH SOUTH AFRICA.

(a) DENIAL OF PARTICIPATION.—Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding any other provision of law, a small business concern shall not be eligible for any program or activity conducted under the authority of this Act or the Small Business Investment Act of 1958 (15 U.S.C. 661 et. seq.) if such concern engages in trade or other commercial activity with—

"(i) the Government of South Africa;

"(ii) any South African entity; or

"(iii) any entity located in South Africa other than an entity (I) involved in anti-apartheid activity, or (II) which provides educational, housing, or humanitarian assistance to individuals throughout South Africa on a nondiscriminatory basis.

"(B) For purposes of this paragraph—

"(i) the term 'South Africa' includes—

"(I) the Republic of South Africa;

"(II) any territory under the administration (legal or illegal) of South Africa; and

"(III) the 'Bantustans' or 'homeland' to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda; and

"(ii) the term 'South African entity' means—

"(I) a corporation, partnership, or other business association or entity organized in South Africa; or

"(II) a branch office, agency, or sole proprietorship in South Africa or a person that resides or is organized outside of South Africa.

"(C) Any contract (or subcontract) awarded to a small business concern that violates this Act shall be revoked by the contracting agency after opportunity for a hearing on the record in accordance with chapter 5 of title 5, United States Code.

"(D) This paragraph shall cease to be effective on the date that the prohibitions described in the Comprehensive Anti-Apartheid Act of 1986 (Public Law 99-440) terminate under section 502 of such Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this title.

SEC. 125. WOMEN-OWNED BUSINESS.

Section 303 of Public Law 96-302 (15 U.S.C. 631b) is amended by adding the following new subsection:

"(e) The information and data required to be reported pursuant to subsection (a) shall separately detail those portions of such information and data that are relevant to—

"(1) small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d) of the Small Business Act; and

"(2) small business concerns owned and controlled by women.".

SEC. 126. ANALYSIS OF FINANCING SOURCES.

(a) STUDY.—Not later than June 1, 1989, or 180 days after the effective date of this section (whichever is later), the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this section as the "Office") shall conduct and complete a study to determine, with respect to the service sector of the economy—

(1) the level of demand for debt capital by small business concerns;

(2) the level of availability of such capital for such concerns; and

(3) how new or innovative financing techniques or the improvement of existing techniques can be used to satisfy the unmet demand for such capital by such concerns consistent with acceptable standards of safety and soundness for loans and investments made by commercial and business lenders and institutional investors.

(b) CONSULTATION AND COOPERATION.—In performing such study, the Office shall consult with the Federal Reserve Board, the Comptroller of the Currency, the Department of Commerce, other relevent agencies and departments of Government, trade and professional associations, and other organizations representing the interest of such business and service sector business concerns. Each department and agency shall afford the Office such assistance and cooperation as may be necessary to achieve the purposes of this subsection.

(c) REPORT.—The study performed pursuant to subsection (a) shall be reported to the Committees on Small Business of the Senate and House of Representatives within 180 days after the effective date of this section.

SEC. 127. EFFECTIVE DATA COLLECTION ON WOMEN-OWNED BUSINESS.

(a) STUDY.—Not later than June 1, 1989, or 180 days after the effective date of this section (whichever is later), the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this section as the "Office") shall conduct and complete a study to determine the most cost effective and accurate means to gather and present data on women-owned businesses, including data on sole proprietorship, partnership, Sub S corporations and regular corporations.

(b) CONSULTATION AND COOPERATION.—In performing such study, the Office shall consult with the Department of Labor, including the Bureau of Labor Statistics, the Department of Commerce, including the Bureau of the Census, the Internal Revenue Service, other relevant agencies and departments of Government, trade and professional associations, and other organizations representing the interest of women-owned businesses. Each department and agency shall afford the Office such assistance and cooperation as may be necessary to achieve the purposes of this subsection.

(c) REPORT.—The study performed pursuant to subsection (a), together with such recommendations for legislative or administrative change as may be appropriate, shall be reported to the Committees on Small Business of the Senate and House of Representatives within 180 days after the effective date of this section.

SEC. 128. MANAGEMENT AND TECHNICAL ASSISTANCE FOR WOMEN-OWNED SMALL BUSINESS.

(a) ESTABLISHMENT.—Subsection (c) of section 8 of the Small Business Act (15 U.S.C. 637(c)) is amended to read as follows:

"(c)(1) Subject to the requirements of paragraph (2), the Administration shall provide financial assistance to private organizations to conduct demonstration projects for the benefit of small business concerns owned and controlled by women.

"(2) No amount of financial assistance shall be provided pursuant to this subsection unless the recipient organization agrees, as a condition of receiving such assistance, that—

"(A) it will obtain, after its application has been approved but prior to the disbursement of funds pursuant to this subsection, cash contributions from private sector sources in an amount at least equal to the amount of funds such organization will receive under this subsection; and

"(B) it will provide the types of services and assistance to present and potential women owners of small business concerns as are described in paragraph (3). For the purposes of this subsection such concerns maybe either 'start-up' businesses or established 'on-going' concerns.

"(3) The types of services and assistance referred to in (2)(B) shall include the following:

"(A) Financial Assistance, which assistance shall include training and counseling in how to apply for and secure business credit and investment capital; prepare and present financial statements; manage cash flow and otherwise manage the financial operations of a business concern.

"(B) Management Assistance, which assistance shall include training and counseling in how to plan, organize, staff, direct and control each major activity and function of a small business concern; and

"(C) Marketing Assistance, which assistance shall include training and counseling in how to identify and segment domestic and international market opportunities; prepare and execute marketing plans; develop pricing strategies; locate contract opportunities; negotiate contracts; and utilize varying public relations and advertising techniques.

"(4) Applications for financial assistance pursuant to this subsection shall be evaluated and ranked in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. Such criteria shall include—

"(A) a criterion that specifically refers to the experience of the offering organization in conducting programs or on-going efforts designed to impact or upgrade the business skills of women business owners or potential owners;

"(B) a criterion that specifically refers to the present ability of the offering organiza-

tion to commence a demonstration project within a minimum amount of time; and

"(C) a criterion that specifically refers to the ability of the applicant organization to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(5) The financial assistance authorized pursuant to this subsection shall be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way or reimbursement.

"(6)(A) The Administration shall prepare and transmit a report to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this subsection. Such report shall provide information concerning—

"(i) the number of individuals receiving assistance;

"(ii) the number of start-up business concerns formed;

"(iii) the gross receipts of assisted concerns;

"(iv) increases or decreases in profits of assisted concerns; and

"(v) the employment increases or decreases of assisted concerns.

"(B) The report required pursuant to (A) shall cover at least a 24 month period and shall be submitted not later than 30 months after the effective date of this paragraph.

"(7) This subsection shall cease to be effective after September 30, 1991.".

(b) TECHNICAL.—Subsection (b) of section 8 of the Small Business Act (15 U.S.C. 637(b)) is amended by—

(1) striking out "and" at the end of paragraph (14);

(2) striking out "public." at the end of paragraph (15) and inserting in lieu thereof "public; and"; and

(3) by adding the following new paragraph:

"(16) to make studies of matters materially affecting the competitive strength of small business, and of the effect on small business of Federal laws, programs, and regulations, and to make recommendations to the appropriate Federal agency or agencies for the adjustment of such programs and regulations to the needs of small business.".

(c) AUTHORIZATION.—There is authorized to be appropriated $10,000,000 to carry out the demonstration projects required pursuant to subsection (a). The initial projects authorized to be financed by this section shall be funded by January 31, 1989. Notwithstanding any other provision of law, the Small Business Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this subsection, except that it shall insure that all eligible sources are provided a reasonable opportunity to submit proposals.

(d) DEFINITION.—For the purposes of this section, the term "small business concern owned and controlled by women" means any small business concern—

(1) that is at least 51 per centum owned by one or more women; and

(2) whose management and daily business operations are controlled by one or more of such women.

(e) New spending authority or authority to enter into contracts as authorized in this section shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

SEC. 129. NEW PROCUREMENT CENTER REPRESENTATIVES.

(a) EMPLOYMENT OF REPRESENTATIVE.—(1) Within 180 days after the effective date of this title, the Small Business Administration shall have completed such measures as may be necessary to employ seven procurement center representatives to be stationed in States where no such representatives are stationed or designated to be stationed as of such effective date.

(2) The representatives employed pursuant to paragraph (1) shall be in addition to and not in lieu of any representatives that may be employed pursuant to any other provision of law or under any exercise of administrative discretion and stationed in such states at the present time.

SEC. 130. RURAL AREA BUSINESS DEVELOPMENT PLANS.

Within six months of the effective date of this Act, the Administrator shall identify each Federal agency having substantial procurement or grant-making authority and shall notify each agency so identified. Within six months of notification, each agency shall develop rural area business enterprise development plans. Such plans shall establish rural areas enterprise development objectives for the agency and methods for encouraging prime contractors, subcontractors and grant recipients to use small business concerns located in rural areas as subcontractors, suppliers, and otherwise. Such plans shall, to the extent the agency deems appropriate and feasible, include incentive techniques as encouragement.

SEC. 131. INCREASED CONTRACT OPPORTUNITIES.

(1) REPORT.—Not later than 180 days after the effective date of this section, the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to as the "Chief Counsel") shall report to the Small Business Committees of the Senate and the House of Representatives, including:

(a) an assessment (based on information available to him) of the extent to which the employees of Federal agencies and departments are performing professional and technical services for foreign governments (or other non-domestic entities) for which there are responsible domestic sources, and

(b) recommendations for specific steps by the Administration other agencies to develop further information with respect to the foregoing issue.

(2) COOPERATION.—In preparing the report, the Chief Counsel shall consult with the Office of Management and Budget, the Department of Commerce, Department of the Interior, other relevant agencies of the government, and trade and professional associations representing the interests of small business concerns. Each agency and department head shall afford the Chief counsel assistance and cooperation to facilitate compilation and submission of his report.

SEC. 132. PRIVATE SECTOR COOPERATION.

(a) EXTENSION OF EFFECTIVE DATE.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended by striking the first sentence and inserting the following: "The amendments made to section 4(b)(3) of the Small Business Act by section 3 of this Act are repealed on October 1, 1988. The amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are repealed on October 1, 1990."

(b) COSPONSORED EVENTS.—Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended—

(1) (by inserting after "Provided, That the Administration shall take such actions as it deems appropriate to ensure" the following: "that any Administration program participating in such cosponsored activities receives appropriate recognition and publicity, and",

(2) by adding at the end thereof the following: "In the case of cosponsored activities which include the participation of a Federal, State, or local public official or agency, the Administration shall take such actions as it deems necessary to ensure that the cooperation does not constitute or imply an endorsement by the Administration or give undue recognition to the pubic official or agency, and that the Administration is given primary recognition in all cosponsored printed materials, whether the participant is a profit-making concern or a governmental agency or official.";

(3) by inserting in clause (i) after "agreement" the following: ", executed on behalf of the agency by an employee of the agency in Washington, D.C., and who shall also approve, in advance, any printed materials to be distributed at the conference,"; and

(4) by striking from clause (ii) "a minimal amount to cover the direct cost of providing such assistance;" and inserting in lieu thereof the following: "an amount to cover the cost of any meal provided to such concerns plus a registration fee of not to exceed $10.00: Provided, That if any such fee is imposed, it shall be collected solely by the cosponsor who shall give a complete accounting to the Administration for all such fees collected and expenses paid therefrom: And provided further, That the Administration shall not cosponsor any activities with any entity which is delinquent in making a full and complete accounting of all fees collected and expenditures made;".

SEC. 133. BACKGROUND CHECK POLICY—FINGERPRINTING.

The Small Business Administration shall not require fingerprints to be obtained for background check purposes from any participant in any Administration program who is serving on a voluntary basis and without compensation unless the Administration has reasonable grounds to believe that the participant's record or background is such as to make the participant ineligible to participate in the relevant program.

SEC. 134. AMENDMENTS RELATING TO PROGRAMS FOR BLIND AND HANDICAPPED.

(a) IN GENERAL.—Section 15(c) of the Small Business Act (15 U.S.C. 644(c)) is amended to read as follows:

"(c)(1) As used in this subsection:

"(A) The term 'Committee' means the Committee for Purchase from the Blind and Other Severely Handicapped established under the first section of the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46).

"(B) The term 'public or private organization for the handicapped' has the same meaning given such term in section 3(e).

"(C) The term 'handicapped individual' has the same meaning given such term in section 3(f).

"(2)(A) During each of fiscal years 1989 through 1993, public or private organizations for the handicapped shall be eligible to participate in programs authorized under this section in an agregate amount for each year as follows: in 1989 not more than $30,000,000, in 1990 not more than $40,000,000, and in each of 1991, 1992 and 1993 not more than $50,000,000.

"(B) None of the amounts authorized for participation by subparagraph (A) may be placed on the procurement list maintained by the Committee pursuant to section 2 of the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 47).

"(3) The Administrator shall monitor and evaluate such participation.

"(4)(A) Not later than 10 days after the announcement of a proposed award of a contract by an agency or department to a public or private organization for the handicapped, a for-profit small business concern that has experienced or is likely to experience severe economic injury as the result of the proposed award may file an appeal of the proposed award with the Administrator.

"(B) If such a concern files an appeal of a proposed award under subparagraph (A) and the Administrator, after consultation with the Executive Director of the Committee, finds that the concern has experienced or is likely to experience severe economic injury as the result of the proposed award, not later than 30 days after the filing of the appeal, the Administrtion shall require each agency and department having procurement powers to take such action as may be appropriate to alleviate economic injury sustained or likely to be sustained by the concern.

"(5) Each agency and department having procurement powers shall report to the Office of Federal Procurement Policy each time a contract subject to paragraph (2)(A) is entered into, and shall include in its report the amount of the next higher bid submitted by a for-profit small business concern. The Office of Federal Procurement Policy shall collect data reported under the preceding sentence through the Federal procurement data system and shall report to the Administration which shall notify all such agencies and departments when the maximum amount of awards authorized under paragraph (2)(A) has been made during any fiscal year.

"(6) For the purpose of this subsection, a contract may be awarded only if at least 75 percent of the direct labor performed on each item being produced under the contract in the sheltered workshop or performed in providing each type of service under the contract by the sheltered workshop is performed by handicapped individuals.".

(b) REPORT.—Not later than September 30, 1992, the General Accounting Office shall prepare a report describing the impact that contracts awarded under section 15(c) of the Small Business Act have had on for-profit small business concerns for fiscal years 1989 through 1991. The report shall be transmitted to the Committees on Small Business of the Senate and the House of Representatives.

(c) TASK FORCE.—There is established within the Small Business Administration a task force on purchases from the blind and severely handicapped which shall consist of one representative of the small business community appointed by the Administrator of the Small Business Administration and one individual knowledgeable in the affairs of or experienced in the work of sheltered workshops appointed by the Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped established under the first section of the Act entitled "An Act to create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (41 U.S.C. 46). The task force shall meet at least once every 6 months for the purpose of reviewing the award of contracts under section 15(c) of the Small Business Act and recommending to the Small Business Administration such administrative or statutory changes as it deems appropriate.

SEC. 135. MISCELLANEOUS AMENDMENTS.

Section 21 of the Small Business Act (15 U.S.C. 648) is amended—

(1) by striking "Deputy Associate Administrator for Management Assistance" each place it appears in subsection (g) and inserting in lieu thereof "Associate Administrator for Small Business Development Centers";

(2) by striking in subsection (g) "the Associate Administrator for Management Assistance" and inserting "an official who is not more than one level below the Office of the Administrator"; and

(3) by inserting the following at the end of subsection (k): "After the administration has entered a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate or fail to renew or extend any such contract unless the Administration provides the applicant with written notification setting forth the reasons therefor and affording the applicant an opportunity for a hearing, appeal or other administrative proceeding under the provisions of the Administrative Procedures Act.".

SEC. 136. FUNDING EXTENSIONS.

The Small Business Act is amended as follows—

(1) by striking from subsection (z) of section 20 "1988 and 1989, $3,500,000" and by inserting in lieu thereof "1988 through 1990, $3,500,000";

(2) by striking from subsection (z) "1988 and 1989, $5,000,000" and by inserting in lieu thereof "1988 through 1990, $5,000,000"; and

(3) by inserting in section 21(c)(5) after "to such center" the following: "or the date the Administration notifies the grantee funded under subsection (a)(1) that funds are available for grant applications pursuant to subsection (a)(6), which ever date occurs last,".

SEC. 137. PROMULGATION OF RULES.

Notwithstanding any law, rule or regulation, the Small Business Administration shall promulgate final regulations to be effective on publication to carry out the provisions of this title within six months after the date of enactment.

SEC. 138. EFFECTIVE DATE.

This title shall be effective on the date of enactment, except that sections 118 through 122 shall be effective for all loan applications resulting from disaster declarations made on or after August 1, 1988 or from disaster declarations whose filing periods were open on October 1, 1988. Any new credit authority provided for in this Act is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE II—PREFERRED SURETY BOND GUARANTEE PROGRAM

SEC. 201. SHORT TITLE.

This title may be cited as the "Preferred Surety Bond Guarantee Program Act of 1988".

SEC. 202. AUTHORITY OF THE ADMINISTRATION.

Section 411(a) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)) is amended to read as follows:

"(a)(1) The Administration may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by a principal on any contract up to $1,250,000.

"(2) The terms and conditions of said guarantees and commitments may vary from surety to surety on the basis of the Administration's experience with the particular surety.

"(3) The Administration may authorize any surety, without further Administration approval, to issue, monitor, and service such bonds subject to the Administration's guarantee.

"(4) No such guarantee may be issued, unless—

"(A) the person who would be principal under the bond is a small business concern;

"(B) the bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon;

"(C) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section; and

"(D) there is a reasonable expectation that such principal will perform the covenants and conditions of the contract with respect to which such bond is required, and the terms and conditions of such bond are reasonable in the light of the risks involved and the extent of the surety's participation.".

SEC. 203. INDEMNIFICATION.

(a) IN GENERAL.—Section 411(b) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(b)) is amended—

(1) by striking paragraph (3),

(2) by striking "; and" and inserting a period at the end of paragraph (2),

(3) by redesignating paragraph (2) as paragraph (3),

(4) by inserting after paragraph (1) the following new paragraph;

"(2) a surety must obtain approval from the Administration prior to making any payments pursuant to this subsection unless the surety is participating under the authority of subsection (a)(3); and", and

(5) by inserting at the end the following new sentence:

"In no event shall the Administration pay a surety pursuant to this subsection an amount exceeding the guaranteed share of the bond available to such surety pursuant to subsection (a).".

(b) AMOUNT OF INDEMNIFICATION.—Section 411(c) of the Small Business Investment Act of 1958 (15 U.S.C. 694(c)) is amended to read as follows:

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum—

"(1) not to exceed 70 percent of the loss incurred and paid by a surety authorized to issue bonds subject to the Administration's guarantee under subsection (a)(3);

"(2) not to exceed 90 percent of the loss incurred and paid in the case of a surety requiring the Administration's specific approval for the issuance of such bond, but in no event may the Administration make any duplicate payment pursuant to subsection (b) or any other subsection;

"(3) equal to 90 percent of the loss incurred and paid in the case of a surety requiring the administration's specific approval for the issuance of a bond, if—

"(A) the total amount of the contract at the time of execution of the bond or bonds is $100,000 or less, or

"(B) the bond was issued to a small business concern owned and controlled by socially and economically disadvantaged indi-

viduals as defined by section 8(d) of the Small Business Act; or

"(4) determined pursuant to subsection (b), if applicable.".

(c) LIMITATION ON ADMINISTRATION'S LIABILITY.—Section 411(e) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(e)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting a comma, and

(3) by adding at the end thereof the following new paragraphs:

"(3) the surety has breached a material term or condition of such guarantee agreement, or

"(4) the surety has substantially violated the regulations promulgated by the Administration pursuant to subsection (d).".

SEC. 204. REPORTS AND AUDITS OF PARTICIPATING SURETIES.

Section 411(g) of the Small Business Investment Act (15 U.S.C. 694b(g)) is amended to read as follows:

"(g)(1) Each participating surety shall make reports to the Administration at such times and in such form as the Administration may require.

"(2) The Administration may at all reasonable times audit, in the offices of a participating surety, all documents, files, books, records, and other material relevant to the Administration's guarantee, commitments to guarantee, or agreements to indemnify any surety pursuant to this section.

"(3) Each surety participating under the authority of paragraph (3) of subsection (a) shall be audited at least once each year by examiners selected and approved by the Administration.".

SEC. 205. REGULATIONS.

The Administration shall promulgate final regulations to implement the amendments made by this title not later than 180 days after the date of the enactment of this Act.

SEC. 206. EVALUATION AND REPORT.

Not later than 3 years after the date of enactment of this Act the Comptroller General of the United States shall transmit a report to the Small Business Committees of the Senate and House of Representatives, which evaluates—

(1) the amendments made by this title,

(2) whether participation in the program by standard surety firms has been expanded, and

(3) whether access to bonds by small business concerns especially small business concerns owned and controlled by socially and economically disadvantaged individuals has been improved.

The report shall cover the first 2 full fiscal years following the date of enactment of this Act.

SEC. 207. SUNSET.

The provisions contained in section 411(a)(3) of the Small Business Investment Act of 1958 (15 U.S.C. 694(a)(3)), shall cease to be effective on September 30, 1991, or on the last day of the third full fiscal year after the date of enactment of this Act, whichever is later.

SEC. 208. REVOLVING FUND.

Section 412 of the Small Business Investment Act of 1958 (15 U.S.C. 694c) is amended—

(1) by inserting "(a)" before "There", and (2) by adding at the end of subsection (a), the following new subsection:

"(b) Such sums as may be appropriated to the Fund to carry out the programs authorized by this part shall be without fiscal year limitation.".

SEC. 209. EFFECTIVE DATE.

Except as otherwise provided in this title, the provisions of this title shall become effective upon the expiration of 180 days after the date of its enactment.

And the Senate agree to the same.

JOHN J. LAFALCE,
NEAL SMITH,
HENRY GONZALEZ,
TOM LUKEN,
IKE SKELTON,
JOE MCDADE,
SILVIO O. CONTE,
WM. BROOMFIELD,
Managers on the Part of the House.

DALE BUMPERS,
SAM NUNN,
JIM SASSER,
LOWELL P. WEICKER, JR.,
RUDY BOSCHWITZ,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4174) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate Amendment. The principle differences among the House bill, the Senate Amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

ITEM 1—CITATION

The House Bill provides that this Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1988."

The Senate Amendment provides that this Act may be cited as the "Small Business Administration Reauthorization and Amendments Act of 1988" and includes a Table of Contents.

The Conference Substitute provides that this Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1988" and includes a Table of Contents.

ITEM 2—AUTHORIZATION AND PROGRAM LEVELS

The House Bill provides program levels, including salaries and expenses, for each of fiscal years 1989 thru 1991. For loan guarantees, these amounts are based upon the 1988 authorized levels with a four percent increase each year to cover inflation; for direct loans, pollution bonds and salaries, they are based upon 1988 appropriated levels; and for surety bonds, they are increased to $1.6 billion. It also provides budget authority to carry out these programs.

The Senate Amendment provides authorizations and program levels for fiscal year 1989 only. The Senate Amendment also provides an open-ended "such sums as necessary" authorization for the Business Loan and Investment Fund (BLIF) and for the Pollution Control Bond Guarantees Program, in lieu of a specific dollar authorization. Loan guarantee levels are basically a freeze based upon 1988 authorized levels, except that an additional $60 million would be added to the section 7(a) guaranteed business loan program for use as a new Pollution Control Loan Program in lieu of the Pollution Bond Guarantees Program which is being terminated as a separate program. No separate program level is provided for guarantees of energy loans under section 7(a)(12) due to a lack of demand for these loans, but the energy loan guarantee authority remains unchanged. Direct loans are frozen at the 1988 authorized level except that $10 million is shifted from Economic Opportunity Loans and divided between Handicapped loans and Veterans loans. Surety Bond Guarantees are increased to $1.4 billion. Salaries and expenses would be increased by approximately $30 million, primarily to cover minority assistance and more export assistance.

The Conference Substitute provides specific program levels, including salaries and expenses, for both of fiscal years 1989 and 1990, and provides budget authority to carry out these levels. It also provides budget authority for fiscal year 1991, but not specific program levels. The conferees note, however, that it is expected that additional legislation will be enacted to provide specific program levels for fiscal year 1991. The conference substitute includes the changes made in the pollution control financing program.

The specific levels of the House bill, the Senate amendment and the conference substitute are shown on the following chart.

SMALL BUSINESS ADMINISTRATION—PROGRAM LEVELS (SEPT. 28, 1988)

[In millions of dollars]

	1988 Authorization	1988 Appropriation	1989 House	1989 Senate	1989 Conference	1990 House	1990 Senate	1990 Conference	1991 House	1991 Senate	1991 Conference
General business loans: Guaranteed	$2,724	$2,421	$2,816	$2,725	$2,817	$2,930	.....	$2,930	$3,047	.....	.....
Handicapped loans	20	18	18	25	22	18	.....	23	18	.....	.....
Direct and IP	15	13	13	20	17	13	.....	18	13	.....	.....
Guaranteed	5	5	5	5	5	5	.....	5	5	.....	.....

SMALL BUSINESS ADMINISTRATION—PROGRAM LEVELS (SEPT. 28, 1988)—Continued

[In millions of dollars]

	1988 Authorization	1988 Appropriation	1989 House	1989 Senate	1989 Conference	1990 House	1990 Senate	1990 Conference	1991 House	1991 Senate	1991 Conference
Economic opportunity loans	105	59	84	95	89	84		93	84		
Direct and IP	40	19	19	30	24	19		25	19		
Guaranteed	65	40	65	65	65	65		68	65		
Energy loans: [1] Guaranteed	16	5	16	75	60	16		62	16		
Veterans loans: Direct and IP	20	17	17	25	21	17		22	17		
Development company loans: Guaranteed	450	450	468	450	460	487		478	506		
Investment company assistance	313	269	308	313	311	309		324	311		
Direct (MESBIC)	41	36	36	41	39	37		41	39		
Guaranteed (SBIC)	272	233	272	272	272	272		283	272		
Total business loans	3,648	3,239	3,728	3,708	3,780	3,861		3,932	3,999		
Direct and IP	116	85	85	116	101	86		106	88		
Guaranteed	3,532	3,154	3,643	3,592	3,679	3,775		3,826	3,911		
Disaster loans	([2])	350	([2])	([2])	([2])	([2])		([2])	([2])		
Surety bond guarantees	1,250	1,250	1,600	1,400	1,500	1,664		1,560	1,731		
Pollution control bond guarantees	75	50	50	0	0	50		0	50		

[1] Includes pollution control loans as proposed by the Senate for fiscal year 1989.
[2] Open-ended.

SMALL BUSINESS ADMINISTRATION—BUDGET AUTHORITY (SEPT. 28, 1988)

[In millions of dollars]

	1988 Appropriation	1989 House	1989 Senate	1989 Conference	1990 House	1990 Senate	1990 Conference	1991 House	1991 Senate	1991 Conference [1]
Business Loan and Investment Fund	$176	$228	Open	Open	$259		Open	$297		
R/E LG	0	0	0	0	0		0	1		
Surety bonds	9	20	18	Open	22		Open	22		
Salaries and expenses	[2] 226	208	248	228	219		238	232		
Pollution control	14	14	Open	Open	14		Open	14		
Total	425	470	?	?	514		?	566		

[1] The conference substitute provides an open-ended authorization for 1991.
[2] Includes $10.3 million disaster supplemental in Public Law 100–393.

ITEM 3—FORM SIMPLIFICATION AND PREFERRED FINANCING

The House Bill requires SBA to expand the "Certified lender" loan program and to provide an incentive to certified and preferred lenders to make small loans of up to $50,000 by allowing them to keep one-half of the 2 percent fee they now collect from borrowers and by allowing certified lenders to use their own loan forms, not SBA forms, for such loans. This will expedite loan processing and encourage lenders to make smaller loans which are less profitable.

The Senate Amendment provides a similar program, but it does not allow the bank to keep one-half of the guarantee fee as is authorized in the House provision.

The Conference Substitute requires SBA to expand the "Certified lender" loan program and to provide an incentive to certified and preferred lenders to make small loans of up to $50,000, first, by allowing them to keep one-half of the 2 percent guarantee fee they now collect from borrowers, and second, by requiring SBA to develop a uniform, simplified set of loan forms solely for use under this small loan program.

The conferees direct SBA to develop promptly a short, simplified loan form that addresses all administration requirements yet is concise and easily readable. The conferees use the term "loan form" in a broad sense and intend that it includes all forms used as part of the loan package. The conferees expect SBA to reduce overall paperwork by 50 percent or more; if it does not do so, they intend to revisit the issue of allowing lending institutions to use their own forms, a provision which was in both the House bill and the Senate amendment.

ITEM 4—GUARANTEE PERCENTAGES FOR PREFERRED LENDERS

The House Bill deletes the authority of SBA to limit the maximum guarantee percentage on loans under the preferred lenders program to less than the percentage approved for other loans. Under existing law, preferred lenders are limited to a 75 percent guarantee instead of the 85–90 percent guarantee made available to other participating lenders. This change eliminates a penalty now imposed on SBA's best lenders who are the only ones eligible for this program.

The Senate Amendment has no comparable provision.

The Conference Substitute allows SBA to continue its practice of limiting the loan guarantee if the loan is made under the preferred loan program. The Agency would be limited, however, to a 5-point reduction. Thus the small loans (those for $155,000 or less) made under the preferred loan program would have an 85 percent guarantee rather than a 90 percent guarantee if made under the regular program, and larger loans would have an 80 percent guarantee if made under the preferred program rather than 85 percent otherwise.

ITEM 5—SURETY BONDS—INDEMNIFICATION

The House Bill authorizes SBA to reimburse surety bond companies for amounts spent to prevent breach of contracts backed by surety bonds guaranteed by SBA or to minimize the losses due to such breach. This will permit the surety to mitigate damages rather than permit them to grow when a bonded contractor defaults. For example, if the builder goes bankrupt before installing windows, the program would pay for temporary closures rather than wait for permanent windows and then also have to repair resulting weather-related damage.

The Senate Amendment is similar, except that it requires SBA prior approval before the surety can make any such payments.

The Conference Substitute authorizes SBA to reimburse surety bond companies for amounts spent to prevent breach of contracts backed by surety bonds guaranteed by SBA or to minimize the losses due to such breach, but requires SBA's prior approval before the surety can make any such payments.

ITEM 6—GUARANTEE PERCENTAGES FOR SURETY BONDS

The House Bill requires that small surety bonds of $100,000 or less carry a guarantee of 90 percent while the larger bonds, at SBA's option, carry a guarantee of 80 percent. Current SBA practice is to limit guarantees to 80 percent. This increase will provide more incentive to surety companies to compensate for the higher cost of providing a smaller bond, and is similar to the higher guarantees now provided on small loans. SBA would not be authorized to reduce these amounts below the stated amounts even for bonds approved under the preferred program (see item 7).

The Senate Amendment restates the existing statutory provision authorizing up to a 90 percent guarantee (thus allowing SBA to continue at the 80 percent level by regulation) except: (1) guarantees under the preferred surety program would be limited to a maximum of 70 percent; and (2) if the bond was approved other than through the preferred surety program it would carry a mandatory 90 percent guarantee if on a contract of $150,000 or less or if it was made on behalf of a contract issued to a socially and

economically disadvantaged individual regardless of the amount of the contract.

The Conference Substitute includes the Senate provision except that the 90 percent guarantee on small bonds is applicable to contracts of $100,000 or less.

ITEM 7—PREFERRED SURETY BOND GUARANTEES PROGRAM

The House Bill authorizes the establishment of a preferred surety bond program under which SBA would delegate the authority to surety companies to approve bonds without further Administration approval. This equates with the preferred lenders program for loans and is designed to encourage the standard sureties to participate in the program and to allow SBA to delegate more responsibility to the agency's better surety companies. SBA would be required to provide program evaluations in an interim report by February 1, 1990 and a final report by February 1, 1991.

The Senate Amendment authorizes, on a three-year pilot basis, a Preferred Surety Bond Guarantee Program ("Program"), similar to the preferred loan guarantee program already in place for SBA's guaranteed loan program. Under the program, firms obtaining "preferred surety" status would be freed from SBA prior approval of each decision relating to the issuance and administration of a guaranteed bond. SBA would only approve the firm's standards and procedures for bond underwriting and administration, including claims. Individual actions by the firm relating to the issuance or administration of a guaranteed bond would be handled without any prior approvals from SBA, presumably in the same manner as the firm's bonding activity outside the Program.

It also requires the General Accounting Office to monitor the implementation of the provisions of the "Preferred Surety Bond Guarantee Program Act of 1988" and to make a report to the Committees on Small Business of the Senate and the House of Representatives within three years after the date of enactment. The focus of the GAO evaluation is to determine if the two major objectives of the amendments have been accomplished: first, whether the standard surety companies have expanded their participation in the SBA Surety Bond Guarantee Program, and second, whether the expanded participation of the standard surety companies has improved the access to surety bonds for small business concerns. The GAO evaluation is to be based upon the first two years of experience under the Program.

The Conference Substitute includes the Senate provision.

ITEM 8—DEFENSES TO SURETY BOND CLAIMS

The Senate Amendment amends the Small Business Investment Act of 1958 by placing additional limitations on SBA's liability to sureties participating in either of the bond guarantee programs. Under this subsection, SBA's liability under the guarantee would be relieved if: (1) a surety has breached a material term or condition of the guarantee agreement, or (2) a surety has substantially violated the regulations issued by SBA to implement the bond guarantee programs.

The House Bill has no comparable provision.

The Conference Substitute includes this provision; however, the conferees note that these are not new defenses to claims against the bond guarantee; the language is merely a codification of existing law.

ITEM 9—MISCELLANEOUS SURETY BOND PROVISIONS

The Senate Amendment contains a surety bond revision that is designed to facilitate the operation of the Surety Bond Guarantee Fund as a revolving fund without fiscal year limitation, as specified in Section 412 of the Small Business Investment Act of 1958 (15 U.S.C. 694(c)). Presently, funds appropriated for the operation of the existing program are limited to a single fiscal year.

It also clarifies the relationship between the general SBA size standards which define the maximum size a firm may attain and still be considered a "small business concern", and the special size standard used to further define eligibility to participate in the Surety Bond Guarantee Program. It makes clear that to participate in the program a firm must be a "small business concern" and concurrently not exceed the program's special size standard of $3.5 million in average gross receipts during the prior fiscal year.

The House Bill has no comparable provision.

The Conference Substitute provides that appropriations to the surety bond guarantee revolving fund may be made available without fiscal year limitation.

The Conference Substitute does not include the size standard provision.

Also, the conferees are concerned with problems involved in the use of personal sureties. Accordingly, they request that the Comptroller General of the United States conduct an indepth study of personal sureties and issue a report with recommendations for government use within one year of date of enactment.

In addition to the GAO study required by Section 206, the conferees direct that the GAO conduct a preliminary survey and review of the bonding needs of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. Such survey and review should address the extent to which such bonding needs are being met through the use of corporate sureties, the SBA Surety Bond Guarantee Program, or other forms of security such as personal sureties. The review should also encompass potential limitations in protections accorded to subcontractors and suppliers by the Miller Act, such as the ceiling on payment bonds. The conferees are especially concerned with problems relating to the use of personal sureties.

The report on the preliminary survey and review requested shall be furnished to the Committees on Small Business of the Senate and House of Representatives within one year of the date of enactment.

ITEM 10—SURETY BOND CHANGES—EFFECTIVE DATE

The Senate Amendment requires the SBA to issue final regulations to implement the amendments made by this title within 180 days after the date of enactment. It also makes the surety bond provisions of the Senate Amendment effective in 180 days.

The House Bill has no comparable provision.

The Conference Substitute includes the Senate provisions.

ITEM 11—EXAMINATION OF SBICS

The House Bill requires Inspector General audits of SBICs every two years on seven major regulatory items rather than every year as under existing law.

The Senate Amendment is similar, but does not specify the regulatory items to be reviewed.

The Conference Substitute requires Inspector General audits of SBICs every two years on seven major regulatory items rather than every year as under existing law. The conferees note that this provision doesn't restrict discretionary audits, but merely reduces the mandatory audit to free-up Inspector General resources to concentrate on major problems. Moreover, the specification of certain items to be reviewed is not intended to limit the Inspector General's authority to audit or examine other issues which, in his judgement, merit examination.

ITEM 12—MINIMUM LIFE LTD. PARTNERSHIP SBICS

The House Bill authorizes limited partnerships with ten-year lives to form SBICs as compared to the current requirement for 30-year lives. This is a technical amendment and will conform to a common practice today in the private venture capital industry of forming 10-year limited partnerships.

The Senate Amendment has no comparable provison.

The Conference Substitute includes this provision.

ITEM 13—PERIODIC SBIC DEBENTURE SALES

The House Bill requires SBA on a regular basis (at least two per year) to issue guarantees of SBIC debentures so that they may be sold to private investors on a regular basis. Sales today are sometimes sporadic and hinder SBICs from proper planning.

The Senate Amendment is similar, except that it requires SBA to issue the guarantees not less than every three months.

The Conference Substitute includes the Senate provision. Regularity and frequency of such issuances should promote better planning by Small Business Investment Companies and help reduce the cost of funds to the industry.

ITEM 14—GAO EVALUATION OF SCORE

The House Bill requires GAO to evaluate and report on the efficiency and cost effectiveness of the SCORE and ACE programs.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 15—AGENCY PARTICIPATION IN SBIR

The House Bill authorizes SBA to issue policy directives for agencies which want to voluntarily participate in the SBIR program or withdraw from the SBIR program due to a decrease in their R&D budgets. Under the SBIR program, Federal agencies with over $100 million in extramural R&D budgets are required to expend 1.25 percent of that budget through small business projects in the SBIR program.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 16—SBA PROGRAM DATA AND EVALUATION

The House Bill requires SBA to develop a program to provide statistical and analytical data on the assistance provided to small businesses. The new program will permit the "tracking" of individual assistance and an evaluation of its merits.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 17—AUTHORITY OF PROCUREMENT CENTER REPRESENTATIVES

The House Bill provides for greater participation in the Federal procurement process by breakout procurement center representatives (PCRs) by authorizing them to have access to procurement records commensurate with the level of their security clearance, improving the appeal process, allowing the Administration to modify staffing levels based on the number of procurement opportunities at a given center, and requiring them to report to the head of the buying activity annually on their activities and conducting training sessions.

The Senate Amendment is similar, except it omits the reporting and training requirement.

The Conference Substitute includes the House provision.

ITEM 18—MERGER OF REVOLVING FUNDS—POLLUTION CONTROL GUARANTEED LOANS

The House Bill merges into the business loan and investment revolving fund (BLIF) the separate revolving fund which handles income and pays claims for the now defunct real estate lease guarantees revolving fund.

The Senate Amendment eliminates both the lease guarantee and pollution control revolving funds, allowing losses in either type of guarantee to be paid out of BLIF. The pollution control fund has been used to finance pollution control facilities under a program in which SBA-guaranteed securities were marketed to investors. The program has not been effective in recent years, in part because of the rather large, 3.5 percent, guarantee fee charged to borrowers by SBA. Additionally, the prices of the securities have been inordinately high in comparison to either comparable Treasury issues or other government-guaranteed paper. Therefore, the Senate Amendment transfers the $75 million pollution control guarantee authority into the section 7(a) loan program.

It also authorizes pollution control loan guarantees of up to $1 million to be made to finance pollution control facilities. The current limit is $750,000.

The Conference Substitute merges into the business loan and investment revolving fund the separate revolving fund which handles income and pays claims for the now defunct real estate lease guarantee revolving fund.

The conferees agree to retain a separate revolving fund for pollution control contract guarantees, although the program no longer provides new guarantees. See program levels specified in item number 2. As a substitute for this program, the conference agreement authorizes loans of up to $1 million per borrower under the 7(a) guaranteed loan program, as provided in the Senate bill, through a separate paragraph which provides loan guarantees for both energy and pollution control purposes. This program will receive an annual program level of $60 million in guaranteed loan making authority in fiscal year 1989 and $62 million in fiscal year 1990.

ITEM 19—PERMANENT EXTENSION OF 504 PROGRAM

The House Bill clarifies that certified development companies shall continue to sell their debentures only to private investors under section 504 rather than to the Federal Financing Bank, thus permanently extending the section 504 pilot program instituted under Public Law 99-272.

The Senate Amendment is similar.

The Conference Substitute clarifies that certified development companies shall continue to sell their debentures only to private investors under section 504 rather than to the Federal Financing Bank, thus permanently extending the section 504 pilot program instituted under Public Law 99-272.

ITEM 20—SECTION 504 COMMERCIAL LOAN INTEREST RATE

The Senate Amendment authorizes the SBA Administrator to establish a maximum legal interest rate on the bank or commercial lender portion of the certified development company (CDC) loan package which will override state law and control all legal disputes. SBA has no such authority currently with respect to the commercial portion of the section 504 loan package and some state usury laws hamper the ability of CDC's to make loans in those states. This problem occurs when either the interest rate on the qualified debentures exceeds the state usury limit, or when the state usury law forces local lenders to decline to commit to a 10-year loan contract, as is required in section 504 program, or both. This would be a pilot program and would be repealed on October 1, 1990, unless Congress decides to extend the authority.

The House Bill has no comparable provision.

The Conference Substitute authorizes the SBA Administrator to establish a maximum legal interest rate on the bank or commercial lender portion of the development company loan package which will override state law and control all legal disputes. This provision is intended to encourage more section 504 loan making authority in states whose usury laws have discouraged banks from agreeing to the long term commitment which is a prerequisite to the section 504 program. This would be a pilot program and would be repealed on October 1, 1990, unless Congress decides to extend the authority.

Although the bill directs SBA to issue regulations within six months on all the bills, in this particular case SBA is directed to issue them within 90 days.

ITEM 21—TECHNICAL CORRECTIONS IN SECTION 505

The House Bill makes technical corrections by correcting a typographical error and inserting a heading in the table of contents.

The Senate Amendment only corrects the typo.

The Conference Substitute makes technical corrections by correcting a typographical error and inserting a heading in the table of contents.

ITEM 22—SECONDARY MARKET IN DEVELOPMENT COMPANY LOANS

The House Bill authorizes a secondary market in development company loan guarantees, the same as now exists for 7(a) loan guarantees. This will encourage banks to make development company loans and then sell them to investors and use the income to make more loans.

The Senate Amendment is similar.

The Conference Substitute authorizes a secondary market in development company loan guarantees, the same as now exists for 7(a) loan guarantees.

ITEM 23—REMOVAL OF OWNERSHIP RESTRICTION ON DEVELOPMENT COMPANY LOANS

The House Bill amends the development company loan program to authorize SBA, in the case of a close family relationship, to waive the usual requirement that a development company loan applicant must own 100 percent of the land on which the plant will be constructed or expanded.

The Senate Amendment is similar.

The Conference Substitute amends the development company loan program to authorize SBA, in the case of a close family relationship, to waive the usual requirement that a development company loan applicant must own 100 percent of the land on which the plant will be constructed or expanded. The conferees note that this will facilitate parents turning over the family business to their children and permit them to expand, thereby encourage the stability of family owned business.

ITEM 24—DCL POLICY TO FURTHER RURAL DEVELOPMENT

The House Bill states Congressional policy that the development company program should also be used to foster economic development in rural areas which are defined as those localities outside official urbanized areas with populations of less than 100,000.

The Senate Amendment has no comparable provision.

The Conference Substitute states Congressional policy that the development company program should also be used to foster economic development in rural areas which are defined as localities which populations of less then 20,000.

ITEM 25—DCL: LEASED PREMISES

The House Bill authorizes up to one third of a project constructed under the certified development company loan program to be leased if it is not immediately needed for use by the small business loan applicant. Current law restricts leasing out to 15 percent. The increase will permit the borrower to plan ahead for future expansion rather than merely building for today's needs.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 26—DCL: FULL TIME STAFF

The House Bill allows a certified development company in a rural area to contract out for professional staff and professional management ability rather than hiring the employees in-house. This will help development companies in rural areas which do not do a sufficient loan volume to justify a full time staff.

The Senate Amendment has no comparable provision.

The Conference Substitute allows a certified development company in a rural area to contract out for professional staff and professional management ability rather than hiring the employees in-house.

The conference substitute also allows these companies to continue accepting grant money from Federal departments and agencies to help defray operating costs, but prohibits the agencies from imposing restrictions upon SBA's program operations by targeting assistance toward certain classes of business. This temporary provision expires May 1, 1990 and is to permit the development companies to find alternative financing sources which do not impose restrictions or requirements.

ITEM 27—DISASTER LOAN POLICY—STATEMENT OF PURPOSE

The House Bill states Congressional policy that in administering the disaster loan program, SBA shall provide assistance and counseling to disaster victims in filing applications, providing information on loan processing and in loan closing and prompt disbursement of proceeds.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 28—DEFINITION OF DISASTER

The House Bill defines natural or other disasters for purposes of disaster loans under section 7(b) as including the usual catastrophes but also including conditions which result in the closure of customary fishing waters. This will clarify that damage such as is caused by red or brown tide or other similar problems is a disaster and those injured by it should be helped.

The Senate Amendment has no comparable provision.

The Conference Substitute defines natural or other disasters for purposes of disaster loans under section 7(b) as including the usual catastrophes but also including conditions which result in the closure of customary fishing waters; however, it expressly excludes economic dislocations. The conferees intended to clarify that damage such as is caused by red or brown tide or other similar problems is a disaster and those injured by it should be helped.

It is not the conferees intention to reopen programs now repealed which in the past provided disaster assistance to businesses adversely affected by foreseeable, planned or deliberate government actions or decisions (such as military base closings, displacement due to the use of eminent domain, regulatory compliance requirements, etc.) or to businesses similarly affected by price or market fluctations (such as peso devaluations or energy shortages) or lack of snow, It is, however, the Conferees' intention that SBA not disqualify otherwise eligible Governor's requests for disaster assistance solely because those affected suffer economic injury due to events which may not result in physical damage (including ocean conditions such as the El Nino phenomenon or toxic algae blooms which result in the closing of customary fisheries, contamination of food or other products by agents of known or unknown origin, oil spills or other major industrial accidents and other unforeseeable and unintended events).

ITEM 29—ECONOMIC INJURY LOANS DUE TO DROUGHT

The Senate Amendment adds the term "droughts" to the list of disasters which are enumerated under Section 7(b)(2) of the Small Business Act. The stated purpose is to clarify that economic injury disaster loan assistance should be provided to victims of droughts.

The house Bill has no comparable provision.

The Conference Substitute eliminates SBA's artificial distinction based on county lines. The Agency is directed to provide disaster assistance to victims of the disaster who are in counties adjacent to disaster declared areas even if the damage was not so large as to warrant a declaration or designation in their county. Thus if a tornado strikes county A and County B but only county A has such extensive damage that that government (regardless of the Agency) makes disaster loan assistance available in it, victims of the tornado in county B are also to receive disaster loan assistance, both physical and economic injury. Inter alia, this change will direct the agency to provide economic injury loan assistance to agricultural cooperatives which have suffered business losses due to the drought but which are located in counties which are adjacent to counties which have been determined to be the primary counties of damage.

The conference substitute also provides that all non profit or charitable institutions, including agricultural cooperatives, which cannot obtain credit elsewhere should recieve the same interest rate as is made available to businesses which cannot obtain credit elsewhere.

Finally, the conference substitute also requires SBA to assist nurseries which have been injured by drought.

ITEM 30—DISASTER MITIGATION ACTIONS

The House Bill authorizes disaster victims to obtain additional financing in an amount equal to one-fifth of the disaster related damage, with the additional amount being used for changes in the property so as to mitigate or reduce the chances of future disaster damage.

The Senate Amendment is similar.

The Conference Substitute authorizes disaster victims to obtain additional financing in an amount equal to one-fifth of the disaster related damage, with the additional amount being used for changes in the property so as to mitigate or reduce the chances of future disaster damage. The conferees note that current law generally only permits reconstruction of what was destroyed. This change will encourage, for example, construction of sea walls or retaining walls.

ITEM 31—UNSECURED DISASTER LOANS

The House Bill authorizes SBA to make unsecured disaster loans of $10,000 or less.

The Senate Amendment is similar.

The Conference Substitute authorizes SBA to make unsecured disaster loans of $10,000 or less. Presently the Small Business Administration limits unsecured loans to $5,000. The Conferees believe that this increase simply recognizes inflation and will partially compensate for it and also should streamline loan processing and reduce red tape.

ITEM 32—NATIONAL DIRECTORY OF SMALL BUSINESSES

The House Bill requires SBA to study and report to Congress by January 1, 1989 on the feasibility of and need for developing an expanded national directory of small businesses which would include each company's capability, standard industrial code, federal supply number and other data.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 33—INELIGIBILITY OF SMALL BUSINESSES ENGAGED IN BUSINESS WITH SOUTH AFRICA

The House Bill amends section 3(a) of the Small Business Act to provide that a small business concern shall not be eligible for any program or activity conducted under the authority of this Act or the Small Business Investment Act of 1958 if such concern engages in trade or other commercial activity with the Government of South Africa; any South African entity; or any entity located in South Africa; any South African entity; or any entity located in South Africa other than an entity involved in anti-apartheid activity, or which provides educational, housing, or humanitarian assistance to individuals throughout South Africa on a nondiscriminatory basis.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision.

ITEM 34—PRESIDENT'S ANNUAL REPORT ON SMALL BUSINESS—WOMEN AND MINORITY-OWNED BUSINESSES

The House Bill amends section 303 of Public Law 96-302 to require that the President's annual report on small business contain a breakout on businesses owned and controlled by women and socially and economically disadvantaged individuals.

The Senate Amendment has no comparable provision.

The Conference substitute includes this provision.

ITEM 35—OFFICE OF ADVOCACY STUDIES SERVICE-SECTOR BUSINESSES, WOMEN-OWNED BUSINESSES

The Senate Amendment requires that within 180 days of enactment the SBA Office of Advocacy conduct and complete two studies: one, to assess the demand and availability of debt financing for service sector businesses; and, two, to determine that the most cost effective and accurate means of gathering and presenting data on women-owned businesses. In the first study, SBA showed work closely with the Federal Reserve Board and other agencies.

The House Bill has no comparable provision.

The Conference Substitute includes this provision.

ITEM 36—MANAGEMENT ASSISTANCE FOR WOMEN-OWNED BUSINESSES

The House Bill requires SBA to provide financial assistance, on a matching funds basis, to private organizations for management training and technical assistance demonstration projects for women business owners. Such public/private sector initiatives would be established to assist both "start-ups" and established "on-going" concerns. Applicants for these funds would be solicited from organizations that have demonstrated their ability to conduct programs and on-going efforts designed to upgrade business skills, to conduct such demonstration projects within a minimum amount of time, and to provide such services to a representative number of socially and economically disadvantaged women.

Subsection (b) requires SBA to study matters that affect the competitive strength of small business, and the effect of laws, programs, and regulations on small businesses and to make recommendations to Federal agencies that appropriate adjustments be made to such programs and regulations to accomodate the needs of small businesses.

Subsection (c) authorizes $10 million to be appropriated to carry out the demonstration projects.

Subsection (d) defines a women owned business as one that is at least 51% owned by one or more women, with management and daily business operations of such concern controlled by one or more women.

The Senate Amendment has no comparable provision.

The Conference Substitute includes this provision. The Conferees intend that SBA move promptly implement this grant-making authority and note that initial grants should be made by January 31, 1989. It is not, however, the conferees intention that all funds appropriated for fiscal year 1989 be obligated by January 31, only that SBA show its good faith and best efforts to fund the initial ground of qualified applicants by that date.

ITEM 37—PROCUREMENT CENTER REPRESENTATIVES

The House Bill requires the Small Business Administration to employ seven additional procurement center representatives to be stationed in states where no such representatives are stationed and authorizes specified amounts of funds to pay such representatives.

The Senate Amendment is similar, except it only requires SBA to employ two such persons, and it does not specifically authorize the appropriation of any money for their salaries.

The Conference Substitute requires the Small Business Administration to employ seven additional procurement center representatives to be stationed in states where no such representatives are stationed. Their salaries and expenses must be from overall agency funding; no new authorization is provided.

ITEM 38—DEBT COLLECTION

The House Bill requires the SBA to contract for debt collection services to recover indebtedness owed to the United States which arises out of an activity of the Small Business Administration and which is deliquent by more than three months and which the Administrator has not actively attempted to negotiate, litigate or reschedule. It also requires SBA to disclose to all credit reporting agencies all debts owed SBA which are more than 31 days delinquent.

The Senate Amendment has no comparable provision.

The Conference Substitute does not include this provision.

ITEM 39—SMALL BUSINESS EXPORT STRATEGY DEVELOPMENT PILOT PROGRAM

The House Bill requires the Administrator of SBA to establish for fiscal years 1989 through 1991, inclusive, a small business export strategy development pilot program involving comparative matching awards to small business concerns which have engaged in, or are seeking to engage in, export trade. These awards would be phased in similar to the phasing in of SBIR matching awards under the Small Business Innovation and Research Program. Phase I would be $25,000 per small business; Phase II would be $10,000 per small business. Each fiscal year $1.385 million dollars would be available to make Phase I matching grants; $500,000 would be available for promotion; and $115,000 would be available for program administration.

The Senate Amendment has no comparable provision.

The Conference Substitute does not include this provision.

ITEM 40—RURAL AREA BUSINESS DEVELOPMENT PLANS

The House Bill requires each Federal agency having substantial procurement or grant making authority to develop rural area enterprise development plans. The plans shall include methods to encourage prime contractors and grantees to use small businesses in rural areas.

The Senate Amendment has no comparable provision.

The Conference Substitute requires the Small Business Administration to identify and notify on those federal agencies having substantial procurement or grant making authority which could be used to promote rural small businesses. Agencies so notified, would then be required to develop plans to accomplish this purpose.

ITEM 41—PREFERENCES FOR AMERICAN MADE PRODUCTS IN SBA PROCUREMENTS

The House Bill requires the Administrator of SBA to award a domestic firm contracts which otherwise would be awarded to a foreign firm if the final product of the domestic firm would be assembled in the United States and when completely assembled, not less than 50 percent of the final product of the domestic firm would be domestically produced, and if the difference between the bids submitted by the foreign and the domestic firm is not more than 6 percent.

The Senate Amendment has no comparable provision.

The Conference Substitute does not include this provision.

ITEM 42—STUDY OF GOVERNMENT INFORMATION PROVIDED FOREIGN GOVERNMENTS

The House Bill requires the Chief Counsel for Advocacy of the Small Business Administration to conduct and complete a study of the extent to which the employees of Federal agencies and departments are performing services for foreign governments which are otherwise capable of performance by small business firms.

The Senate Amendment has no comparable provision.

The Conference Substitute requires the Chief Counsel for Advocacy of the Small Business Administration to assess the extent to which the employees of Federal agencies are performing professional and technical services for foreign governments (or other non-domestic entities) for which there are responsible domestic sources, and to submit a report thereon including recommendations for specific steps to be taken by SBA or other agencies to develop further information with respect to the foregoing issue.

In preparing the report the Chief Counsel is directed to consult with the Office of Management and Budget, the Department of Commerce, Department of the Interior, other relevant agencies of the government and trade and professional associations representing the interests of small business concerns.

ITEM 43—PRIVATE SECTOR COOPERATION

The Senate Amendment extends for two more years SBA's authority for a private sector cooperation program under which it cosponsors training and managerial assistance-type events with private, for profit businesses. This program was originally authorized by the Small Business and Computer Security Act of 1984. It modifies current law to make it clear that all SBA programs participating in a cosponsored activity shall receive appropriate recognition and further requires that SBA shall receive appropriate recognition in all such events and ensure that no endorsement of any elected official is made or implied.

Although current law requires SBA to ensure that its cosponsored activities do not constitute or imply an endorsement by the agency of the products or services of the cosponsor, this provision extends that requirement to any activity which SBA cosponsors with a Federal, state or local public official or agency.

The House Bill has no comparable provision.

The Conference Substitute includes this proposal but also requires tighter controls on all such activities.

The conferees are concerned that the Agency has not complied with previous statutory restrictions on the conduct of joint training sessions. For example, despite what current law requires:

(1) SBA has only been able to provide about ¼ of the mandatory agreements for 381 projects cosponsored by 259 cosponsors;

(2) many contracts are either deficient or unsigned;

(3) brochures lack the required disclaimer;

(4) businesses and some public officials have used materials for unwarranted self promotion; and

(5) SBA cannot account for any of the fees collected at the conferences and certain individuals have been reported to have made large personal profits on SBA cosponsored events.

The conferees stress that the agency must comply with the statutory requirements.

ITEM 44—REPORT ON BACKGROUND CHECK POLICY

The Senate Amendment requires the Administration to revaluate the agency's policy requiring criminal history background checks to be made on loan applicants, licensees, directors and other SBA program participants to determine eligibility, and to report its finding to the House and Senate Small Business Committees. The Federal Bureau of Investigation has historically provided a criminal file name check service to SBA and other federal agencies, but has recently announced that such services will no longer be provided unless the applicant's fingerprints are provided.

The House Bill has no comparable provision.

The Conference Substitute, to ensure that certain volunteer participants who are often well-known in their communities (such as directors of Certified Development Companies) will not be unreasonably subjected to fingerprint requirements under the agency's background check policy, prohibits SBA from requiring fingerprints of those who serve voluntarily and without compensation in SBA programs unless the agency has reasonabl grounds to suspect that a participant's record is such as to warrant the fingerprint check. These individuals include, but are not limited to, members of SCORE and ACE, directors of non-profit Certified Development Companies, and members of SBA advisory organizations.

If the Administration determines that the prohibition will adversely affect its ability to meet its statutory and regulatory responsibilities governing SBA program eligibility, then the Administration should report that concern to the House and Senate Committees on Small Business promptly, including in such report a complete description of SBA's needs with regard to access to criminal records of program participants and other procedures used to determine eligibility. Such a description shall take into account the relative risk involved with different programs and participants, including the magnitude of SBA's financial exposure, as well as the privacy interests of participants. Further, such report shall include reasons why alternative means of reviewing a participant's record or background other than by fingerprinting would not be available. And finally, it should evaluate the systems used by other Federal agencies with loan-making authority. If such agencies require fingerprint checks, the details should be included, including the number of fingerprint checks per year by the agency as compared to loan approval numbers; if the other agencies do not require fingerprint checks, SBA should explain why their

system is not compatible or adaptable to SBA's needs and responsibilities.

ITEM 45—ELIGIBILITY OF HANDICAPPED ORGANIZATIONS FOR SMALL BUSINESS SET-ASIDES

The Senate Amendment amends the Small Business set-aside program to:

reauthorize a law allowing rehabilitation facilities to bid on small business set-aside contracts;

establish a maximum ceiling of $50 million in contracts that these rehabilitation facilities can be awarded;

permit only $8 million of the $50 million annual ceiling of contracts be converted to the Javits-Wagner-O'Day Act program;

establish a five year sunset provision;

provide small businesses with an expedited appeal to the SBA Administrator when they allege that they will suffer economic hardship from an award to rehabilitation facility; if the appeal has merit, the Administrator may require the contracting activity to take appropriate action; and

require the General Accounting Office to study and report back to Congress on the impact of the bidding by rehabilitation facilities before the program could be extended.

The House Bill has no comparable provision.

The Conference Substitute amends the Small Business set-aside program to:

reauthorize a law allowing rehabilitation facilities to bid on small business set-aside contracts;

establish maximum ceilings on the amount of contracts that these rehabilitation facilities can be awarded each year: $300 million in 1989, $40 million in 1990, and $50 million in each of 1991, 1992 and 1993;

prohibit any amounts from being converted to the Jarvits-Wagner-O'Day Act program;

establish a five year sunset provision;

provide small businesses with an expedited appeal to the SBA Administrator when they allege that they will suffer economic hardship from an award to a rehabilitation facility; if the appeal has merit, the Administrator may require the contracting activity to take appropriate action; and

require the General Accounting Office to study and report back to Congress on the impact of the bidding by rehabilitation facilities before the program could be extended.

The conferees recognize the need for vocational rehabilitation facilities to become more familiar with the Federal competitive procurement process, especially as it relates to bid preparation. Thus they encourage SBA to work with appropriate organizations in developing training programs.

ITEM 46—SBA OFFICIALS—TITLE CHANGES

The Senate Amendment changes the titles of the Associate and Deputy Associate Administrators for the Small Business Development Center Office as requested by SBA.

The House Bill has no comparable provision.

The Conference Substitute changes the title of the Deputy Associate Administrator for Management Assistance to the Associate Administrator for Small Business Development Centers. It also provides that this position shall not be more than two levels below the Administrator, that is, that this individual shall report to an individual who is not more than one level below the Administrator.

ITEM 47—PROMULGATION OF RULES

The House Bill requires SBA to issue final regulations to carry out this title within six months.

The Senate Amendment is similar.

The Conference Substitute requires SBA to issue final regulations to carry out this title within six months.

ITEM 48—WHITE HOUSE SMALL BUSINESS CONFERENCE

The Senate Amendment directs the President to call and conduct a National White House Conference on Small Business not less than every six years. It also authorizes $4 million to pay for each conference, with that amount to cover expenses over an expected two-year planning period per conference.

The House Bill has no comparable provision.

The Conference Substitute does not include this provision.

ITEM 49—INTERNATIONAL TRADE

The House Bill is identical with title VIII of H.R. 3 and H.R. 4848, except that the authorizations for SBA's Office of International Trade of $3.5 million and the authorization for the Small Business Development Centers for international trade of $5 million have been extended and also provided for fiscal years 1990 and 1991.

The Senate Amendment incorporates this title of the Trade Bill without change.

The Conference Substitute authorizes the appropriation of $3.5 million in fiscal year 1990 for SBA's Office of International Trade and $5 million for grants to SBDCs assistance to promote export trade in 1990, the same amounts as were provided in the Trade Bill for 1989. The conferees note that the other provisions were enacted into law as title VIII of H.R. 4848.

JOHN J. LAFALCE,
NEAL SMITH,
HENRY GONZALEZ,
TOM LUKEN,
IKE SKELTON,
JOE MCDADE,
SILVIO O. CONTE,
WM. BROOMFIELD,
Managers on the Part of the House.

DALE BUMPERS,
SAM NUNN,
JIM SASSER,
LOWELL P. WEICKER, Jr.,
RUDY BOSCHWITZ,
Managers on the Part of the Senate.

WOMEN'S BUSINESS OWNERSHIP ACT OF 1988

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5050) to amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act, together with the following table of contents, may be cited as the "Women's Business Ownership Act of 1988".

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TITLE I—CONGRESSIONAL FINDINGS AND PURPOSES

SEC. 101. FINDINGS AND PURPOSES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(f)(1) With respect to the programs and activities authorized by this Act, the Congress finds that—

"(A) women owned business has become a major contributor to the American economy by providing goods and services, revenues, and jobs;

"(B) over the past two decades there have been substantial gains in the social and economic status of women as they have sought economic equality and independence;

"(C) despite such progress, women, as a group, are subjected to discrimination in entrepreneurial endeavors due to their gender;

"(D) such discrimination takes many overt and subtle forms adversely impacting the ability to raise or secure capital, to acquire managerial talents, and to capture market opportunities;

"(E) it is in the national interest to expeditiously remove discriminatory barriers to the creation and development of small business concerns owned and controlled by women;

"(F) the removal of such barriers is essential to provide a fair opportunity for full participation in the free enterprise system by women and to further increase the economic vitality of the Nation;

"(G) increased numbers of small business concerns owned and controlled by women will directly benefit the United States Government by expanding the potential number of suppliers of goods and services to the Government; and

"(H) programs and activities designed to assist small business concerns owned and controlled by women must be implemented in such a way as to remove such discriminatory barriers while not adversely affecting the rights of socially and economically disadvantaged individuals.

"(2) It is, therefore, the purpose of those programs and activities conducted under the authority of this Act that assist women entrepreneurs to—

"(A) vigorously promote the legitimate interests of small business concerns owned and controlled by women;

"(B) remove, insofar as possible, the discriminatory barriers that are encountered by women in accessing capital and other factors of production; and

"(C) require that the Government engage in a systematic and sustained effort to identify, define and analyze those discriminatory barriers facing women and that such effort directly involve the participation of women business owners in the public/private sector partnership.".

TITLE II—DEMONSTRATION PROJECTS

SEC. 201. ESTABLISHMENT.

Subsection (c) of section 8 of the Small Business Act (15 U.S.C. 637(c)) is amended to read as follows:

"(c)(1) Subject to the requirements of paragraph (2), the Administration shall provide financial assistance to private organizations to conduct demonstration projects for the benefit of small business concerns owned and controlled by women.

"(2) No amount of financial assistance shall be provided pursuant to this subsection unless the recipient organization agrees, as a condition of receiving such assistance, that—

"(A) it will obtain, after its application has been approved but prior to the disbursement of funds pursuant to this subsection, cash contributions from private sector sources in an amount at least equal to the amount of funds such organization will receive under this subsection; and

"(B) it will provide the types of services and assistance to present and potential women owners of small business concerns as are described in paragraph (3). For the purposes of this subsection such concerns may be either 'start-up' businesses or established 'on-going' concerns.

"(3) The types of services and assistance referred to in paragraph (2)(B) shall include the following:

"(A) Financial assistance, which assistance shall include training and counseling in how to apply for and secure business credit and investment capital; prepare and present financial statements; manage cash-flow and otherwise manage the financial operations of a business concern.

"(B) Management assistance, which assistance shall include training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(C) Marketing assistance, which assistance shall include training and counseling in how to identify and segment domestic and international market opportunities; prepare and execute marketing plans; develop pricing strategies; locate contract opportunities; negotiate contracts; and utilize varying public relations and advertising techniques.

"(4) Applications for financial assistance pursuant to this subsection shall be evaluated and ranked in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. Such criteria shall include—

"(A) a criterion that specifically refers to the experience of the offering organization in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(B) a criterion that specifically refers to the present ability of the offering organization to commence a demonstration project within a minimum amount of time; and

"(C) a criterion that specifically refers to the ability of the applicant organization to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(5) The financial assistance authorized pursuant to this subsection shall be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement.

"(6)(A) The Administration shall prepare and transmit a report to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this subsection. Such report shall provide information concerning—

"(i) the number of individuals receiving assistance;

"(ii) the number of start-up business concerns formed;

"(iii) the gross receipts of assisted concerns;

"(iv) increases or decreases in profits of assisted concerns; and

"(v) the employment increases or decreases of assisted concerns.

"(B) The report required pursuant to subparagraph (A) shall cover at least a twenty-four-month period and shall be submitted not later than thirty months after the effective date of this paragraph.

"(7) This subsection shall cease to be effective after September 30, 1991.".

SEC. 202. TECHNICAL.

Subsection (b) of section 8 of the Small Business Act (15 U.S.C. 637(b)) is amended by—

(1) striking out "and" at the end of paragraph (14);

(2) striking out "public." at the end of paragraph (15) and inserting in lieu thereof "public; and" and

(3) by adding the following new paragraph:

"(16) to make studies of matters materially affecting the competitive strength of small business, and of the effect on small business of Federal laws, programs, and regulations, and to make recommendations to the appropriate Federal agency or agencies for the adjustment of such programs and regulations to the needs of small business.".

SEC. 203. AUTHORIZATION.

There is authorized to be appropriated $10,000,000 to carry out the demonstration projects required pursuant to section 201. The initial projects authorized to be financed by this title shall be funded by January 31, 1989. Notwithstanding any other provision of law, the Small Business Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.

SEC. 204. DEFINITION.

For the purposes of this title, the term "small business concern owned and controlled by women" means any small business concern as defined pursuant to section 3 of the Small Business Act (15 U.S.C. 632)—

(1) that is at least 51 per centum owned by one or more women; and

(2) whose management and daily business operations are controlled by one or more of such women.

TITLE III—ACCESS TO CAPITAL

SEC. 301. AMENDMENTS TO THE CONSUMER CREDIT PROTECTION ACT.

Subsection (a) of section 703 of the Consumer Credit Protection Act (15 U.S.C. 1691b(a)) is amended to read as follows:

"(a)(1) The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.

"(2) Such regulations may exempt from the provisions of this title any class of transactions that are not primarily for personal, family, or household purposes, or business or commercial loans made available by a financial institution, except that a particular type within a class of such transactions may be exempted if the Board determines, after making an express finding that the application of this title or of any provision of this title of such transaction would not contribute substantially to effecting the purposes of this title.

"(3) An exemption granted pursuant to paragraph (2) shall be for no longer than five years and shall be extended only if the Board makes a subsequent determination, in the manner described by such paragraph, that such exemption remains appropriate.

"(4) The Board shall require entities making business or commercial loans to maintain such records or other data relating to all such loans as may be necessary to evidence compliance with this subsection or enforce any action pursuant to the authority of this Act. In no event shall such records or data be maintained for a period of less than one year. The Board shall promulgate regulations to implement this paragraph in the manner prescribed by chapter 5 of title 5, United States Code.

"(5) The Board shall provide in regulations that an applicant for a business or commercial loan shall be provided a written notice of such applicant's right to receive a written statement of the reasons for the denial of such loan.".

SEC. 302. FORM SIMPLIFICATION AND PREFERRED FINANCING.

(a) CERTIFIED LOAN PROGRAM.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding to subsection (a) the following new paragraph:

"(19) During fiscal years 1989, 1990, and 1991, in addition to the preferred lenders program authorized by the provision in section 5(b)(7), the Administration is authorized to establish a certified loan program for lenders who establish their knowledge of Administration laws and regulations concerning the loan guarantee program and their proficiency in program requirements. In order to encourage certified lenders and preferred lenders to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, the Administration shall allow participating lenders in the certified loan program and in the preferred loan program (A) to solely utilize a uniform simplified form developed by the Administration solely for use under this paragraph and (B) to retain one-half of the fee collected

pursuant to section 7(a)(16) on such loans: *Provided,* That a participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless such amount was not approved under the provisions of this paragraph. The designation of a lender as a certified or preferred lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or if the Administration determines that the loss experience of the lender is excessive as compared to other lenders: *Provided further,* That any suspension or revocation of the designation shall not affect any outstanding guarantee: *And provided further,* That the Administration may not reduce the per centum of guarantee as a criterion of eligibility for such designation.".

(b) REPORTS.—The Administration shall take such steps as it deems appropriate to expand participation in the certified loan program and shall report to the Small Business Committees of the Senate and the House of Representatives on the amount of loans approved and the amount of losses sustained under the provisions of section 7(a)(19) of the Small Business Act. An interim report shall be submitted not later than one year after the date of enactment.

SEC. 303. ANALYSIS OF FINANCING SOURCES.

(a) JOINT STUDY.—Federal Reserve Board, the Comptroller of the Currency, the Department of Commerce and the Small Business Administration shall jointly conduct a study to determine, with respect to the service segment of the economy—

(1) the level of demand for both debt and equity capital by small business concerns;

(2) the level of availability of such capital for such concerns; and

(3) how new or innovative financing techniques or the improvement of existing techniques can be used to satisfy the unmet demand for capital by such concerns consistent with acceptable standards of safety and soundness for loans or investments made by commercial and business lenders and institutional investors.

(b) REPORT.—The study performed pursuant to subsection (a) shall be reported to the Committees on Small Business of the Senate and House of Representatives within one hundred and eighty days after the effective date of this section.

TITLE IV—NATIONAL WOMEN'S BUSINESS COUNCIL

SEC. 401. ESTABLISHMENT.

There is established a Council to be known as the "National Women's Business Council" (hereinafter in this title referred to as the Council).

SEC. 402. DUTIES OF THE COUNCIL.

(a) The Council shall review—

(1) the status of women owned business nationwide, including progress made and barriers that remain in order to assist such businesses to enter the mainstream of the American economy;

(2) the role of the Federal Government and State and local governments in assisting and promoting aid to, and the promotion of, women owned business;

(3) data collection procedures and the availability of data relating to (A) women owned businesses; (B) women owned small business, and (C) small business owned and controlled by socially and economically disadvantaged women; and

(4) such other government initiatives as may exist relating to women owned business including, but not limited to, those relating to Federal procurements.

(b) Based upon its review, the Council shall, by December 31, 1989, and every twelve months thereafter, recommend to the Congress and the President—

(1) new private sector initiatives that would provide management and technical assistance to women owned small business;

(2) ways to promote greater access to public and private sector financing and procurement opportunities for such businesses; and

(3) detailed multiyear plans of action, with specific goals and timetables, for both public and private sector actions needed to overcome discriminatory barriers to full participation in the economic mainstream.

(c) For the purposes of this title the term "small business concern owned and controlled by women" shall have the same meaning as that term is given in section 204 of this Act.

SEC. 403. MEMBERSHIP.

(a) The Council shall be composed of nine members to be selected as follows:

(1) the Administrator of the Small Business Administration, the Secretary of Commerce (or such Secretary's deputy) and the Chairman of the Federal Reserve Board (or such Chairman's designee, who shall be a member of the Board);

(2) two members shall be appointed by the majority leader, and one member shall be appointed by the minority leader of the Senate.

(3) two members shall be appointed by the Speaker, and one member shall be appointed by the minority leader of the House of Representatives.

(b)(1) Appointments under section (a) (2) and (3) shall be made from individuals who are specially qualified to serve on the Council by virtue of their education, training, and experience and who are not officers or employees of the Federal Government nor of the Congress.

(2)(A) Of the individuals to be appointed under subsection (a) (2) and (3)—

(i) no more than two members to be appointed under each such paragraph of such subsection shall be of the same political party;

(ii) at least two members appointed under each such paragraph of such subsection shall be women; and

(iii) at least two members to be appointed under each such paragraph of such subsection shall be owners of small business concerns as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(B) Appointments made pursuant to subsection (a) (2) and (3) shall be made in the following sequence—

(i) appointments under (a)(2) shall be made within ninety days of the effective date of this title; and

(ii) appointments under (a)(3) shall be made within one hundred and twenty days of the effective date of this title.

(3) In making appointments under subsection (a), the appointing authorities shall give due consideration to achieving balanced geographical representation.

(C) Members appointed under subsection (a) (2) and (3) shall be appointed for a three-year term, except if any such appointee becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Council for not longer than the thirty-day period beginning on the date such individual becomes such an officer or employee.

(D) A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(E) Members of the Council shall serve without pay for such membership, except members of the Council shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Council, in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(F)(1) Two members of the Council shall constitute a quorum for the receipt of testimony and other evidence.

(2) A majority of the Council shall constitute a quorum for the approval of a recommendation or report submitted pursuant to section 402 or section 406.

(G) The Chairperson and Vice Chairperson of the Council shall be designated by the President. The term of office of the Chairperson and Vice Chairperson shall be at the discretion of the President.

(H) The Council shall meet not less than four times a year. Meetings shall be at the call of the Chairperson.

SEC. 404. DIRECTOR AND STAFF OF THE COUNCIL.

(a)(1) The Council shall have a Director who shall be appointed by the Chairperson. Upon recommendation by the Director, the Chairperson may appoint and fix the pay of four additional personnel.

(2) The Director and staff of the Council may be appointed without regard to section 5311(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(b) The Council may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(c) Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title without regard to section 3341 of title 5 of the United States Code.

SEC. 405. POWERS OF THE COUNCIL.

(a) The Council may, for the purpose of carrying out this title sit and act at such times and places, hold such hearings, take such testimony, receive such evidence, and consider such information, as the Council considers appropriate. The Council may administer oaths or affirmations for the receipt of such testimony.

(b) Any member or person within the employ of the Council may, if so authorized by the Council, take any action which the Council is authorized to take by this section.

(c) Except as otherwise prohibited by law, the Council may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon the request of the Chairperson of the Council, the

head of such department or agency shall promptly furnish such information to the Council.

(d) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(e) The Administrator of the General Services Administration shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request. In addition, the Administrator shall, as appropriate, provide to the Council, upon its request, access to and use of such Federal facilities as may be necessary for the conduct of its business.

SEC. 406. REPORTS.

The Council shall transmit to the President and to each House of the Congress a report no less than once in every twelve-month period. The first such report shall be submitted no later than December 31, 1989. Such reports shall contain a detailed statement on the activities of the Council, and the findings and conclusions of the Council, together with its recommendations for such legislation and administrative actions as it considers appropriate based upon its reviews conducted under section 402.

SEC. 407. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out this title and they may remain available until expended. New spending authority or authority to enter into contracts as authorized in this title shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

TITLE V—STATISTICAL DATA AND EFFECT ON OTHER PROGRAMS

SEC. 501. CENSUS DATA.

(a) BUREAU OF LABOR STATISTICS.—The Bureau of Labor Statistics of the Department of Labor shall include in any census report it may prepare on women owned business data on—

(1) sole proprietorships;

(2) partnerships; and

(3) corporations.

(b) BUREAU OF THE CENSUS.—The Bureau of the Census of the Department of Commerce shall include in its Business Census for 1992 and each such succeeding census data on the number of corporations which are 51 per centum or more owned by women.

(c) COMBINED STUDY.—Not later than one hundred and eighty days after the effective date of this section, the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this subsection as the "Office") shall conduct a study and prepare a report recommending the most cost effective and accurate means to gather and present the data required to be collected pursuant to subsections (a) and (b). The Department of Commerce and the Department of Labor shall provide the Office such assistance and cooperation as may be necessary and appropriate to achieve the purposes of this subsection.

SEC. 502. PROCUREMENT DATA.

(a) REPORTING.—Each Federal agency shall report to the Office of Federal Procurement Policy the number of small businesses owned and controlled by women and the number of small business concerns owned and controlled by socially and economically disadvantaged businesses that are first time recipients of contracts from such agency. The Office of Federal Procurement Policy shall take such actions as may be appropriate to ascertain for each fiscal year the number of such small businesses that have newly entered the Federal market.

(b) DEFINITIONS.—For purposes of this section the terms "small business concern owned and controlled by women" and "small business concerns owned and controlled by socially and economically disadvantaged individuals" shall be given the same meaning as those terms are given under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and section 204 of this Act.

SEC. 503. STATE OF SMALL BUSINESS REPORT.

Section 303 of Public Law 96-302 (15 U.S.C. 631(b)) is amended by adding the following new subsection:

"(e) The information and data required to be reported pursuant to subsection (a) shall separately detail those portions of such information and data that are relevant to—

"(1) small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d) of the Small Business Act; and

"(2) small business concerns owned and controlled by women.".

SEC. 504. DISADVANTAGED SMALL BUSINESSES.

Nothing contained in this Act is intended to reduce or limit any programs, benefit, or activity that is authorized by law to assist small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d)(3) of the Small Business Act (15 U.S.C. 637 (d)(3)).

The SPEAKER pro tempore. Is a second demanded?

Mr. IRELAND. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. LA FALCE] will be recognized for 20 minutes and the gentleman from Florida [Mr. IRELAND] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LA FALCE].

Mr. LaFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amazing growth of women's business ownership has been called the most significant economic development of recent years. Women have suffered from centuries of prejudice, discrimination, and exploitation. But the last half century, and particularly the last 20 years has been a period of revolutionary change in the social and economic status of American women.

Most of the attention has focused on the social aspects of women in the work force. But the explosive rise of women entrepreneurs, and what this phenomenon means to our present day economy, has not been given the attention it deserves.

During April and May of this year, the Small Business Committee held 6 days of hearings on the achievements and special problems of women business owners. We were amazed by what the hearings revealed. Women owned business is the fastest growing segment of our economy. Women are starting their own businesses at a rate twice that of men, and now own approximately 30 percent of our Nation's businesses. If the present rate continues, the Government estimates that by the year 2000 they could own as many as one half.

Unfortunately it is still more difficult for women to achieve the same level of business success as men—but for reasons unrelated to talent or enterpreneurial skill. Women face the same problems that confront all small businesses, but they face more of them and to a greater degree. Nevertheless, women are succeeding in business—in all industry classifications. The committee witnesses included a number of "myth-busters" who are succeeding in industries that have been, traditionally, the sole province of men. But they are succeeding against great odds. And business receipts lag substantially behind those for male owned business.

The problems have been well-documented. During our committee hearings, we heard from a total of 26 witnesses and received additional testimony from many others. Following the hearings, the committee issued an investigative report entitled "New Economic Realities: The Rise of Women Entrepreneurs." The report included a series of findings and policy recommendations that formed the basis for this much needed legislation.

During the hearings, the committee identified several major problem areas. H.R. 5050 addresses those problems by proposing action relating to the following specific needs: management training and technical assistance; access to capital; improved statistical information and data; and Federal policies and programs in support of women entrepreneurs. The bill follows recommendations contained in the committee report.

MANAGEMENT TRAINING PROJECTS

It is generally agreed that lack of management skill is a primary cause of business failure. The committee found that one of the principal needs of women business owners is high quality sustained management training and technical assistance to improve entrepreneurial skills and increase profitability. It is the position of the committee that the private sector has by far the greatest business expertise and the most effective person to teach entrepreneurship is the entrepreneur. Public/private partnerships to provide effective management and technical assistance, therefore, could significantly enhance business opportunities for women.

Title II of the bill would provide matching funds to establish demonstration projects in a limited number of geographical test areas. These projects would provide sustained man-

agement training and technical assistance to women business owners based on model programs that have demonstrated high levels of success in the private sector.

ACCESS TO CAPITAL

Small businesses generally cite limited access to capital as a primary detriment ot business success. Capital is essential for business formation, operation, and expansion. The committee found that women suffer the same disadvantages in seeking traditional sources of capital as all small business owners. But they also face additional barriers, including outright discrimination, that severely limit their access to business credit, and affect negatively the terms and conditions under which women are able to obtain such credit.

The Equal Credit Opportunity Act of 1974 [ECOA] prohibits discrimination in credit transactions on the basis of race, color, national origin, sex, marital status, or age. Provisions contained in the Act are designed to permit the monitoring of credit transactions and to prevent discriminatory practices.

The ECOA provides for the promulgation of regulations by the Federal Reserve Board and authorizes the Fed to make classifications and distinctions and to exempt from the act any class of business or commercial transactions under certain conditions. Regulation B, which was promulgated under this authority, in effect, exempts all business and commercial credit transactions from the ECOA provisions relating to the following: First, notification of the right to receive a statement of reasons for adverse action; second, retention of records, including information used in evaluating the application; and third, information concerning marital status.

I do not believe that Congress intended the Fed to exempt business credit from the procedural requirements in such a broad manner. The legislative report accompanying the ECOA of 1974 is quite clear that business and commercial credit were intended to be afforded the same protections against discrimination as other types of credit activities.

H.R. 5050 addresses this problem by amending the Equal Credit Opportunity Act to require the Federal Reserve Board to reexamine and revise regulations that exempt business loans from key protections of the act.

The bill would require the Board to make express determinations and findings prior to making any exemptions. It would also provide guidance relating to the restoration of important rights waived by present regulations. It is the intention of this legislation that the Fed could not again exempt all business loans from the procedural requirements of the ECOA.

The requirement for formal hearings by the Federal Reserve Board has been dropped. The Fed has made it clear that this provision is not necessary, because it will make the necessary adjustments by its usual notice and comment rulemaking procedures, if this bill is enacted.

The committee recognizes that some forms of commercial loan transactions and extensions of credit may require specialized rules. For example, the committee believes that loans and credit extensions incidental to trade credit, factoring arrangements, and sophisticated asset-based loans should continue to be exempted from the record retention and automatic notification requirements. It would be literally impossible to provide notice for requests for demand-basis advances and the hundreds or thousands of factoring transactions and instant-answer decisions made daily—even hourly—under such credit relationships. But the committee wants to make clear that the initial transaction to set up such loans, contractual credit agreements, or lines of credit should be subject to ECOA protections.

Nor does the committee believe that record retention and automatic notice requirements should apply to informal or undocumented applications such as those made over the telephone or in conversations between a banker and clients.

In recent years, the financial community has developed creative financing arrangements, revolving loans, asset-based lending, and many other hybrids that may not fit the mold of the traditional loan. It is the intention of the legislation that the Fed carefully examine such transactions and develop procedures which will protect the borrower without unnecessarily hampering such financial transactions by imposing unworkable requirements. Moreover, to require paperwork and automatic written notice for each individual credit decision which follows the initial entry into arrangements between the borrower and the lender may be very difficult and not necessary to accomplish the goals of this legislation.

Concern has also been expressed by financial institutions concerning any requirement to divulge sources of confidential and sensitive credit information. It is expected that the Fed is in a position to strike an appropriate balance between a client's right to know and the need to preserve free flow of information among creditors necessary to assess risk.

The Fed should also take into account the size and nature of loan transactions in determining the kinds of records that must be maintained. For example, there is no need or intent to require lenders to retain volumes of records concerning complicated transactions of major corporations involving millions and millions of dollars. However, in providing guidance on this issue, the committee notes that the Small Business Administration has recently been granted authority to guarantee loan packages to small businesses of up to $1.5 million in value.

Finally, the committee understands that any regulation to be established pursuant to this legislation will eliminate the rule that permits inquiry into marital status except in cases where the spouse could conceivably assert an interest in the collateral used to secure the transaction, or in some way lessen the ability of the creditor to assert its rightful claim. For example, if property to be used as collateral for a loan is wholly owned by the business, there would be no need for inquiry into marital status; in community property states, on the other hand, such inquiry would be permissible.

The ECOA has been instrumental in providing equal access to consumer credit. Similar progress is needed for business loans as well. H.R. 5050 would clarify the law by requiring the same types of protection for commercial loans that are presently enjoyed for consumer credit transactions. We are convinced that they will benefit not only women business owners, but all small businesses, without imposing an undue burden upon the financial community.

This title of our bill relating to access to capital also would create an SBA guaranteed miniloan program for amounts up to $50,000 utilizing simplified application and evaluation procedures. These loans would serve all small businesses, but would be especially useful for the service sector of the economy where women owned businesses are concentrated.

NATIONAL WOMEN'S BUSINESS COUNCIL

Unfortunately, programs and policies of the Federal Government in support of women owned business, according to the findings of the committee, have been ineffectual in advancing the status of such concerns to any significant degree. Most such efforts have been superficial, unimaginative, and lacking in long-term commitment. Government efforts to aid and encourage women entrepreneurs need strong direction from high levels in order to receive the sustained attention that produces bottom line results.

The bill would establish a high level policymaking body that would develop a comprehensive plan of action, with specific goals and timetables, to be submitted to Congress and the President. The National Women's Business Council would include representatives from the highest levels of both public and private sectors, to examine issues and make recommendations in support of women owned business.

STATISTICAL INFORMATION AND DATA

As a result of our hearings, the committee concluded that present statistical information and data are inad-

equate for present needs. Reliable data is needed to assist public policy makers in dealing with the special problems facing women business owners. Private sector officers and leaders need such data also in order to make informed business judgments that affect business and the economy. Lack of information relative to corporations owned and controlled by women may have skewed perceptions as to the relative strengths and capacities of women owned businesses among policymakers, capital sources, and procurement officials.

The bill addresses the problem of incomplete and inconsistent data and requires improved data collection and reporting procedures by the Federal Government. In general, information sources that supply business statistics would be required to capture data and report on women owned business sole proprietorships, partnerships, and corporations.

PROCUREMENT ASSISTANCE

The committee has agreed to withdraw from consideration the title that would have provided procurement assistance for women owned businesses. We remain convinced, however, that this is an extremely important issue, and legislative action is badly needed. In spite of the fact that women owned business is the fastest growing sector of the business community, these firms have a $250 billion annual impact upon our economy, they receive less than 1 percent of Government contracts. This figure is far too low, and is representative of neither the potential of women owned business nor their reasonable share.

The Government Operations Committee has an interest in procurement issues, and given the lateness of the hour, the chairman of that committee has requested that this title be dropped. We are accommodating their request. We intend, however, to again bring up this issue for consideration in the next Congress.

It is my firm belief that H.R. 5050 will strengthen the competitive position of women entrepreneurs specifically, and all other entrepreneurs as well. It will provide assistance in the service industries—the cutting edge of our changing economy where women predominate—but also in all other industry classifications.

It is imperative that we take immediate action to remove the remaining barriers to women's entrepreneurship. This is not a special interest issue; it is not a social issue; it is an economic issue. Women entrepreneurs represent a gold mine of untapped resources. The economic future of this Nation demands that we release the business potential resident within the female half of our population.

I want to acknowledge the able assistance and widespread bipartisan support of my colleagues on the committee. I sincerely appreciate the interest shown by both minority and majority members during the hearings and throughout our legislative efforts. Letters sent to our colleagues in the House by ranking minority members JOSEPH M. MCDADE and SILVIO CONTE resulted in many additional cosponsors. On September 22 when our legislative report was filed, the bill had 129 cosponsors, including Representative LINDY BOGGS, Cochair PAT SCHROEDER, and OLYMPIA SNOWE, and many other members of the Caucus on Women's Issues. During the past week I have received expressions of sponsorship and support from Mrs. ROUKEMA of New Jersey, Mrs. BYRON of Maryland, Mr. DIXON of California, Mr. PASHAYAN of California, Mr. QUILLEN of Tennessee, Mr. FLORIO of New Jersey, and Mr. HOYER of Maryland.

This bill has been endorsed by all the major small business groups and organizations, including the National Federation of Independent Businesses [NFIB], National Small Business United [NSBU], and the Small Business Legislative Council [SBLC], and national women's organizations including the National Association of Women Business Owners [NAWBO], the Women's Equity Action League [WEAL], the National Federation of Business and Professional Women's Clubs of America [BPW], the American Association of University Women [AAUW], and many others.

Mr. Speaker, I applaud the support of my distinguished colleagues, and strongly urge the passage of this important legislation.

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Mr. IRELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, I would like to call the attention of our colleagues to the work done by our chairman, the gentleman from New York [Mr. LAFALCE], in spearheading this legislation. He is the new chairman in this Congress of the Small Business Committee and has done an outstanding job. This is just one of the gold stars he deserves.

Mr. Speaker, I strongly urge my colleagues to support this legislation.

Mr. MCDADE. Mr. Speaker, the Women's Business Ownership Act is numbered H.R. 5050 to emphasize our objective—giving women an even chance at success in small business.

This bill recognizes the rise of the woman entrepreneur as an important new economic reality in America.

Women make up almost 30 percent of small business owners in America today, and could own half of all small businesses by the year 2000.

They are starting new businesses at a rate twice as fast as men, despite subtle and overt forms of gender-based discrimination against women striking out for success in the challenging world of small business.

H.R. 5050 seeks to eliminate that discrimination and put women on an equal footing with men without government handouts.

The bill addresses the main problem areas identified in our committee's hearings on women entrepreneurs: A need for management training and technical assistance; a need to clarify the Consumer Credit Protection Act to cover both commercial and business lending; and a need to gather timely statistics on women-owned businesses.

These provisions will go a long way toward removing the barriers that have traditionally confronted women in their business endeavors. H.R. 5050 will allow even more women to compete on an equal basis and pursue full economic participation in the American dream.

Mr. IRELAND. Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. Mr. Speaker, I rise in strong and enthusiastic support of H.R. 5050.

The bill provides an important boost to the development and expansion of women-owned businesses. It is the result of a thorough series of hearings and careful study by the small business Committee. That examination found that women-owned businesses represent one of the most rapidly growing sectors of our econony—but that women continue to experience significant disadvantages as entrepreneurs. The legislation we have before us is designed to combat some of those difficulties and thereby—to remove unnecessary obstacles to the flourishing of this promising component of our national economy.

I am particularly pleased that the bill contains in its section dealing with access to credit, the major components of another bill that I joined Chairman LAFALCE in introducing. That bill would clarify the application of the 1974 Equal Credit Opportunity Act to business credit as well as to personal credit. Regulations implementing the 1974 act and its 1976 amendments made certain exceptions for business credit situations and apparently left the impression that the act did not fully apply to business credit. Women entrepreneurs and would-be entrepreneurs have indicated that access to credit on the same basis as their male counterparts has continued to be a problem.

I am pleased that the same provisions as are in H.R. 5050 to address this concern, are also included in the banking reform legislation that has been reported by the House Banking Committee.

Small business has always been the most important source of vitality and jobs for our economy. Entrepreneurship has been our economy's cornerstone, and its spirit and vitality have

always been prized qualities in our Nation. H.R. 5050 will go a long way toward permitting full participation of women in that entrepreneurial spirit. In so doing, it will foster important economic growth and vitality.

My congratulations to Chairman LAFALCE, to ranking minority member JOE MCDADE, and to the members of the Small Business Committee for producing a bill that recognizes the contributions and potential contributions of women entrepreneurs to our national enrichment. I urge the support of all my colleagues.

Mr. IRELAND. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise in very strong support of this fine bill. Today will be, I think, a double victory, for a little later in the process we will be dealing with legislation, in this case the House rules, through which we hope we are going to prevent discrimination in employment in the U.S. House of Representatives. It is not for women exclusively, but arises largely as a result of complaints which have arisen from complaints of discrimination against women.

This bill before us now is far broader. In that sense, it is of greater, nationwide importance, but the bill concerned with discrimination in the House is of greater significance as a symbol. Both bills are extremely important, and I am sure that Members will want to pass both of them unanimously.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we have all heard the discussions of falling and rising productivity of the need to think globally in business and compete worldwide. In those discussions we seldom hear much about the fastest growing segment of the entrepreneurial community.

Women are going into business twice as fast as men.

Before the 1970's, women owned less than 5 percent of U.S. businesses, they now own 30 percent and it is estimated that they will own 50 percent by the year 2000.

This bill contains some important initiatives to help those women entrepreneurs face the barriers that they, as women, face in the business world. The bill provides direction and funds for public/private demonstration projects to provide management training programs for women currently in business and for potential women business owners. The bill at long last requires that the Equal Credit Opportunity Act of 1974 apply to commercial credit as well as to the consumer credit. And the bill establishes practices for better data collection by the Bureau of the Census and the Bureau of Labor Statistics, so that we can better judge how to address the needs of this growing sector of our economy.

I would like to compliment the Chair of the Small Business Committee, Mr. LAFALCE, for his hard work on this legislation and the indepth series of hearings he held to investigate the status of women entrepreneurs. I look forward to continuing to work with him to update Federal policy to recognize this dynamic business community.

Mr. MCDADE. Mr. Speaker, today I am pleased to rise in support of the Women's Business Ownership Act of 1988, which Chairman LAFALCE and I introduced jointly. Our committee gave overwhelming approval to this landmark legislation to spur increased entrepreneurship among women and to promote the development and growth of women-owned businesses in America. I want to commend Chairman LAFALCE for his leadership in focusing attention on women in business, exploring critical issues and problems confronting women business owners, and developing a legislative action plan and agenda for assisting women in business. I want to thank the other members of the committee and other cosponsors whose support of this bill had made its consideration possible. Also, I want to express my appreciation for the fine staff work that is represented in this legislative initiative.

Women are having a profound impact on the economy as an increasing number leave their current jobs and employers to become their own bosses by starting and managing small businesses. Women's business ownership continues to expand more rapidly than ownership by men. According to one estimate based on Internal Revenue Service data, women-owned businesses grew 47 percent between 1980 and 1985. In comparison, men-owned firms grew 31 percent during the same period. Today, 3.7 million of the more than 13 million sole proprietorships nationwide are owned by women, nearly double the 1.9 million such firms they owned 10 years ago. Female-owned businesses are making substantial contributions to the U.S. economy. It is estimated that the revenues generated by these enterprises exceed $100 billion annually. Firms started and operated by women pay approximately $37 billion in Federal taxes and contribute an additional $13 billion in combined State and Federal levies. Such businesses are a major source of employment for women and other groups. According to one estimate by the U.S. Small Business Administration, one-half of all self-employed people will be women by the end of this century. The emergence of these future entrepreneurs will not only increase the ranks of women business owners, but will also increase their participation and importance in the American free enterprise system.

Mothers, daughters, grandmothers, wives, housewives, and single females from all strata of American society have caught the spirit and vision of entrepreneurial ownership. They are challenging anew old assumptions about women and shattering myths about their abilities as they meet the challenges of owning and operating businesses with determination, tenacity, and a will to succeed. They have built new-found confidence in their abilities to manage, to lead, and to achieve bottom-line results. Today's woman in business belongs to a new breed of American entrepreneur—she is a can-do, tough-minded, goal-oriented entrepreneur who also brings compassion and caring to the workplace and demonstrates concern for employees. As women puruse opportunities and compete, they are setting new standards of performance and are reaching for and achieving new plateaus of excellence and success. Women in business are infusing America with a new entrepreneurial energy and infectious enthusiasm. They are literally changing the face of the American economy as they travel the high road leading to success. Today's women in business exhibit the highest ideals and aspirations of the American tradition of free enterprise.

Our Nation is enriched by the increased participation of women in the free enterprise system. That is the purpose of the legislation that we are considering today. Government, if it is to serve, and serve it should, must facilitate the development and growth of women-owned business. Yet, it must do more. It must remove barriers that impede the development and growth of female-owned enterprises and restrain their participation in the free enterprise system. The women's business ownership act of 1988 will broaden the participation of women in business by guaranteeing opportunity and eliminating obstacles.

Our legislation addresses problems and needs identified by women business owners and seeks to enhance female entrepreneurship by providing new opportunities. The bill authorizes the creation of a 3-year, $10 million program to finance public/private partnerships aimed at providing management training and technical assistance to women business owners. Barriers blocking women's access to capital and credit are also addressed. The legislation authorizes the creation of a National Women's Business Council that will be required to submit a comprehensive plan of action, with specific goals and timetables, to support women in business. Futhermore, improved collection of data will ensure that Congress and the administration can adequately review the progress of the program and the women it serves.

I'd like to say to the women of this Nation that your country has a need for your talents, your expertise, and your leadership. Enactment of this legislation will ensure greater participation of women in the economic mainstream and provide more opportunity than ever before. It is my hope it will stimulate women entrepreneurship in America so that women-owned businesses will grow and prosper like never before. I urge my colleagues to support the bill.

Ms. PELOSI. Mr. Speaker, I rise in support of H.R. 5050, the Women Business Ownership Act of 1988. Women-owned businesses are the fastest growing sector of the American economy. Prior to the 1970's, women owned less than 5 percent of all American businesses. Currently, they own approximately 30 percent. They are starting businesses at over twice the rate of men and could well own and

operate 50 percent of the Nation's businesses by the year 2000.

This past April and May the House Committee on Small Business held a series of six hearings on women's business issues, and issued a bipartisan report entitled, "New Economic Realities: The Rise of Women Entrepreneurs." The hearings demonstrated that despite their large numbers, women still face substantial barriers in the business community.

The committee identified four barriers to women-owned businesses that merited special attention: First, the need for management and technical training; second, the inequality of access to commercial credit; third, the virtual exclusion of women-owned businesses from Government procurement activities; and fourth, the inadequacy of information and data relative to women-owned businesses.

H.R. 5050, which I am privileged to cosponsor, was introduced to overcome these barriers. Its highlights are:

First. It would amend the Equal Credit Opportunity Act of 1974 to eliminate the current exemption for business loans which have been promulgated by the Federal Reserve Board. Among other things, this would require financial institutions to refrain from inquiring into the marital status of loan applicants.

Second. It would establish a 3-year $10 million program to finance demonstration projects to provide management training and technical assistance to women business owners.

Third. It would create a special Small Business Administration guaranteed miniloan program for amounts up to $50,000. These loans would serve all small businesses, but would be especially useful for the service sector of the economy where women-owned businesses are concentrated.

Fourth. It would improve statistical data on women-owned businesses now compiled by the Federal Government.

Finally, the bill would establish a National Women's Business Council made up of high-level private sector representatives and Government policymakers. This council would be charged with submitting recommendations to Congress and the President by the end of December 1989 for a multiyear plan of action to support women business owners.

H.R. 5050 is vital if the women business owners of this country are to continue to build on their recent progress. I urge you to vote in favor of H.R. 5050.

Mr. BEREUTER. Mr. Speaker, I rise today in support of H.R. 5050 and commend the leadership on both sides for the cooperative effort in bringing this measure to the House floor. As a cosponsor of this measure, I wish to express my sincere appreciation to the Small Business Committee chairman, the distinguished gentleman from New York [Mr. LAFALCE], and to the distinguished ranking minority member, the gentleman from Pennsylvania [Mr. MCDADE].

The astonishing increase in the number of women entrepreneurs has been called the most significant economic development of recent years. Women now own approximately 30 percent of all American businesses and make an enormous contribution to our present-day economy creating millions of new jobs.

The women's business ownership bill implements the recommendations of the House Small Business Committee report, "New Economic Realities: The Rise of Women Entrepreneurs." The report addresses four main areas of need for women business owners:

First, management training and technical assistance;

Second, access to business credit;

Third, increase participation in Federal procurement activities; and

Fourth, improved statistical information and data.

Our Nation needs the business skills of the women in our population. Women business owners represent an untapped resource for economic vitality and prosperity. This measure will amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women.

I urge my colleagues to support the Women's Business Ownership Act.

Mr. PRICE. Mr. Speaker, I rise today in support of H.R. 5050, the Women's Business Ownership Act of 1988. I am pleased to be an original cosponsor of this bill, and I hope my colleagues will join me in voting for this timely and important legislation.

Under Chairman JOHN LAFALCE's leadership, 6 days of hearings were held examining barriers to female entrepreneurship and policy solutions necessary to break down those barriers. We heard from a number of talented women entrepreneurs, including Carey I. Stacy from my district. As the owner of DiaLogos International Corp., a foreign language center in Raleigh, NC, and coowner of Globex, Inc., an export management company, Ms. Stacy lent considerable expertise to these proceedings. She presented valuable perceptions and experience, expecially regarding her difficulties in obtaining a loan for the foreign language center and her efforts in promoting international trade for small service businesses.

I believe H.R. 5050 will substantially increase opportunities for women business owners. The bill authorizes a 3-year $10 million demonstration program to finance public/private sector initiatives providing management training, and technical assistance to women business owners. The bill also works to ensure that women entrepreneurs are not overlooked in the procurement process. It requires Federal agencies to improve outreach programs for women business owners and include these owners in goal-setting for prime contracts and subcontracts.

H.R. 5050 gives women fair consideration in commercial credit applications. The bill amends the Equal Credit Opportunity Act to eliminate the business loan exemption, blocking financial institutions from asking about women's marital status when applying for a business loan. Under the bill, financial institutions must also inform applicants that they have the right to request the reasons for commercial credit denials.

In addition, the bill will work to improve data and statistical information about businesses owned by women. And it establishes a National Women's Business Council to develop a plan of action to support women entrepreneurs.

This bill is an important step toward fulfilling the creative potential and developing the talents of women business owners. I strongly urge my colleagues to support H.R. 5050.

Mr. CONTE. Mr. Speaker, I rise today in support of H.R. 5050, the Women's Business Ownership Act of 1988 and to commend the chairman of the Small Business Committee, JOHN LAFALCE and my good friend JOE MCDADE, the ranking minority for initiating this bold and visionary legislation. I am proud to be an original cosponsor.

More and more, Mr. Speaker, women are finding that small business self-employment is the major pathway to full economic participation in our economic system. Any barrier to that, be it stereotyping, statute of sex discrimination needs to be eliminated now.

I wish to thank all the individual women and women's organizations who have worked with the small business committee in developing this legislation. Your untiring efforts and concerns were critical in formulating this bill and many of your ideas have also been incorporated into H.R. 4174, the SBA reauthorization bill.

Central to this bill is Title IV—Access to Capital, which protects against discrimination and stereotyping of women by financial institutions. This closes a loophole in the Equal Credit Opportunity Act of 1974 that prevented equal access to commercial credit by women and minorities.

I am, however, disappointed that Title III—Procurement Assistance was dropped from the bill. Women own almost 30 percent of all small business yet they receive only 1 percent of the Federal procurement dollars. Affirmative efforts and outreach programs are desperately needed if the Federal Government is going to utilize the expanding capabilities of women business enterprises. Federal contracting should support and reflect the diversity of the business community in America. I do not support dropping this title and will continue to fight for increased participation by women enterprises in the Federal procurement system.

Mr. Speaker, this bill has overwhelming support in the Small Business Committee and in the House. I urge all my colleagues to vote in support of H.R. 5050 and to continue the fight for equality in the 101st Congress.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise today in favor of H.R. 5050, the Women's Business Ownership Act. Today's vote marks the culmination of a long series of hearings held by the Small Business Committee on the problems faced by women in business.

Women businessowners neither want nor need a Federal Government handout. The testimony the committee heard from women businessowners from all across the country made it clear that they just want a fair chance, a fair opportunity.

Many of us do not realize the vital and significant role women play in our work force. For instance, 52 million women age 16 and over are currently in the American labor force.

Working women constitute 44 percent of the labor force, and by the year 2000, they are projected to comprise 47 percent of the labor force.

Women businessowners comprised less than 5 percent of American businesses prior to the 1970's, yet today women own roughly 30 percent of American small businesses, including half of the retail establishments and three-fourths of the service companies.

As these statistics show, women contribute significantly to our economy, which helps us to reduce our deficit and to improve our standard of living.

Even so, missing are certain mechanisms which are needed to ensure that women not only continue to contribute greatly to our economy, but do so at a much greater pace.

That is the impetus for the bill being considered today. Women businessowners are in great need of proper access to credit, assistance in the Federal contract bidding process, and business representation and advocacy at the highest levels of Government.

Mr. Speaker, during the hearings held on this issue, I can remember my surprise in hearing a woman businessowner talk about her problems in obtaining credit to start a business. She talked about her experience with banks, and the fact that her husband had to cosign every time she applied for a loan.

I found this surprising, because it was the same concern being expressed to me 10 years ago when I was in the Kansas Senate. To make so little progress in this area in 10 years points toward the need for action, which is why I am so enthusiastic about this bill, and look forward to the impact it will have in improving the business climate for women.

Mr. Speaker, I urge my colleagues to vote for H.R. 5050.

Mr. ROTH. Mr. Speaker, I rise to support enactment of H.R. 5050, the Women's Business Ownership Act. As a cosponsor of this important legislation, I urge my colleagues to vote for this measure.

H.R. 5050 is an important step forward in opening up new opportunities for the millions of American women who are in the forefront of entrepreneurship. This bill is dedicated to the fulfillment of one of our Nation's most cherished principles: That every American has a right to equal opportunity in making the best use of one's energy, talent, and hard work in pursuing economic success.

This legislation would make several important strides toward the realization of that right by American women. By amending the Small Business Act, this bill would establish separate goals for women business enterprises in government contracts and subcontracts, and would charge every Federal agency with the responsibility to reach out to women-owned businesses in their competitive procurement programs.

Moreover, this bill would broaden the Equal Credit Opportunity Act to ensure that commercial lending practices are applied equally to all businesses. Since access to capital is a crucial element of any business strategy, this provision will greatly improve access to credit based on the financial merits of a business, not its ownership.

In addition, the legislation would establish a new Small Business Administration Loan Program specifically geared to helping women-owned businesses in the service sector.

Mr. Speaker, the people of northeast Wisconsin believe deeply in the American dream, and share an abiding faith that one's future is determined by hard work, traditional values, and a dedication to new business opportunities. This legislation is consistent with that philosophy, and I am pleased to be a cosponsor of the Women's Business Ownership Act.

Ms. COLLINS. Mr. Speaker, I rise in support of H.R. 5050, the Women's Business Ownership Act, but I do so with mixed feelings. On one hand I am very glad to see the House considering legislation that, at least at its inception, was designed to be a giant step toward increasing opportunities for millions of women business owners and for women who wished to start or expand their businesses. However, in the course of committee consideration, one very key provision of the bill was removed, and another was amended, thereby greatly diminishing the measure's potential impact.

I originally had concerns about whether the bill stated clearly enough its applicability to minority women. Further, I had urged a clarification of the bill's intent to include socially and economically disadvantaged women in the procurement goals and reporting requirements. Although the measure was not amended to reflect these concerns, they were addressed in the report accompanying H.R. 5050.

In an earlier version, the bill attempted to extract a serious commitment to the growth and development of women-owned businesses from the Federal Government. H.R. 5050 had required that each Federal agency establish procurement goals for purchasing from women-owned businesses and further required that prime and subcontractors of the agency adhere to those goals as well. However, this provision was removed from the bill. The Federal Government is the largest purchaser of goods and services and has enacted a body of laws to ensure that small and minority businesses are allowed to actively participate in providing those goods and services. It would have been entirely appropriate for the Federal Government to include women-owned businesses, and businesses owned by socially and economically disadvantaged women in their procurement goals.

Such goals for women-owned businesses would have been in addition to any procurement goals for minority-owned businesses. There would have been no numerical standards set, such as 5 percent or 10 percent. Rather, the goals would have been set through neg otiations between the Small Business Administration and each agency. The procurement language that was removed from the bill—and is expected to be seen again in legislation next session—specifically stated that nothing in H.R. 5050 was intended to reduce or limit any program, benefit, or activity to assist small, disadvantaged businesses, and the language of the report makes clear the intent of the bill.

The provision in the original bill that was weakened would have strengthened the provisions of the Equal Credit Opportunity Act of 1974 [ECOA], to provide equal access to consumer credit in much the same way equal access is provided for consumer credit. While the bill as it stands now does not provide the clear prohibitions against discrimination in obtaining commercial credit, it does close many of the loopholes in the ECOA that had allowed women business owners to be denied commercial credit, often on specious grounds.

While the version of H.R. 5050 being considered today does not go far enough in ensuring equality for women-owned businesses, it is a step in the right direction. It does provide for training and managerial assistance to women business owners and creates a National Women's Council which would, among other things, help the Federal Government establish timetables and goals for increased contracting opportunities for women-owned businesses.

I will support H.R. 5050, but with less enthusiasm than I had earlier anticipated. I look forward to revisiting this issue in the next Congress and building on the foundation laid with this measure.

Mr. IRELAND. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 5050, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1330

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter of H.R. 5050, the bill just considered.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from New York?

There was no objection.

SMALL BUSINESS INVESTMENT ACT OF 1958 AMENDMENTS

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 437) to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies, as amended.

The Clerk read as follows:

S. 437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

In title V of the Small Business Investment Act of 1958, insert the following new section:

SEC. 506. (a) DEFINITIONS.—(1) As used in this section, "issuer" means the issuer of a debenture which has been purchased by the Federal Financing Bank pursuant to section 503 of this Act.

(2) "Borrower" means the small business concern whose loan secures a debenture issued pursuant to section 503 of this Act.

(b) The issuer of a debenture purchased by the Federal Financing Bank and guaranteed under section 503 of this Act may at the election of the borrower prepay such debenture by paying to the Federal Financing Bank the outstanding principal balance and accured interest due on the debenture at the coupon rate on the debenture plus a prepayment penalty as described in subparagraph: *Provided,* That:

(1) the loan that secures the debenture is not in default on the date the prepayment is made;

(2) private capital, with or without the existing debenture guarantee, is used to prepay the debenture: *and provided further,* that if private capital with the existing debenture guarantee is used, such refinancing may be done solely pursuant to section 504 and 505 of this Act;

(3) the issuer of the debenture certifies that the benefit associated with prepayment of the debenture are entirely passed through to the borrower.

(c) The Federal Financing Bank may impose a prepayment penalty on issuers of debentures who elect to pay those debentures before maturity according to the following schedule:

(1) For debentures with ten years or less remaining before maturity, a penalty not to exceed 40 percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(2) For debentures with more than 10 years but less than 15 years remaining before maturity, a penalty not to exceed 50 percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(3) For debentures with more than 15 years but less than 20 years before maturity, a penalty not to exceed 60 percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(4) For debentures with more than 20 years remaining before maturity, a penalty not to exceed 70 percent of an amount equal to the annual interest on the outstanding balance of the debenture at the coupon rate;

(d) No fees other than those specified in this section may be imposed as a condition on such prepayment against the issuer of the debentures, or the borrower, or the Small Business Administration or any fund or account administerd by the Small Business Administration. If a debenture is refinanced without the existing debenture guarantee, the borrower may be required to pay a fee to the issuer of the debenture in the amount of one percent of the outstanding principal amount of the loan which secures the debenture. If a debenture is refinanced with the existing guarantee pursuant to section 504 of this Act, the borrower shall be subject to imposition of a fee by the issuer of the debenture in the amount of one-half of one percent of the outstanding principal amount of the loan which secures the debenture. Debentures refinanced under section 504 otherwise shall be subject to all of the provisions of such section and section 505 of this Act and the rules and regulations of the Administration promulgated thereunder, including but not limited to payment of authorized expenses and commissions, fees or discounts to brokers and dealers in trust certificates issued pursuant to section 505: *Provided, however,* That the issuer shall be deemed to have waived any origination fee on the new debenture to which it would have otherwise been entitled under 13 Code of Federal Regulations section 108.503-6(a)(1).

(e) Any debenture refinanced under section 504 pursuant to this section shall have a term of either 10 or 20 years, as determined by the Administration.

(f) In the event of default by a borrower, the Administration's guarantee shall be extinguished by payment by the Administration of the remaining principal balance plus accured interest.

(g) Notwithstanding any other law, rule or regulations, the guarantee by the Administration under section 503 of this Act of existing debentures purchased by the Federal Financing Bank which are refinanced pursuant to this section under section 504 of this Act shall continue in full force and effect and the full faith and credit of the United States shall continue to be pledged to the payment of all amounts which may be required to be paid under any guarantee of debentures or trust certificates (representing ownership of all or a fractional part of such debentures) issued by the Administration or its agent pursuant to section 505 of this Act.

(h) The Administration shall issue regulations to implement this section and to facilitate the prepayment of debentures and loans made with the proceeds of such debentures within 60 days of the date of enactment of this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. IRELAND. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes and the gentleman from Florida [Mr. IRELAND] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 437 a bill which will go a long way towards eliminating the predicament facing some small businesses which are burdened with very high interest rates on debentures guaranteed by the Small Business Administration. Many of these firms want to prepay or refinance their loans but cannot do so due to exorbitant prepayment penalties charged by the Government, prepayment penalties which far exceed those charged by the private sector under similar circumstances.

Certified Development Companies [CDC's] issue debentures, with an SBA guarantee, and use the proceeds to provide funds to small businesses for plant and equipment. Since Public Law 99-272, these debentures are now sold to private investors and are not a problem; however, those issued prior to this Public Law were guaranteed by SBA and then sold to the Federal Financing Bank. Some of these debentures, issued in the early 1980's, bear interest at 13 to 15 percent rates and many of the small businesses now would like to refinance these loans at lower interest rates. Others need additional capital and thus need to prepay in order to provide clear title to the underlying security which they must pledge to secure prepayment of the new larger loan. However, the Federal Financing Bank imposes prepayment penalties, sometimes equal to 30 or 40 percent of the amount of the loan, thus effectively precluding prepayment.

For example a small business in Florida participated in the CDC Program in 1982 and borrowed $500,000 for 20 years at 15 percent interest. The loan is now paid down to slightly more than $400,000 and yet SBA has computed the prepayment penalty at an additional $142,000. This amounts to a penalty of 35 percent.

A similar problem affects another SBA program, the Minority Enterprise Small Business Investment Company [MESBIC] Program, under which a MESBIC issues debentures, which SBA holds in-house, and uses the proceeds to provide venture capital to socially or economically disadvantaged small businesses. Some of them also have interest rates in the 15 percent range. Although SBA permits prepayment of them without penalty, it will not purchase any new debentures from any MESBIC which prepays until the expiration of the original term of the prepaid debentures unless the MESBIC voluntarily pays a similarly high penalty.

This very important provision is being added to the Senate bill by my amendment. An example of this is a New York MESBIC was funded for $600,000 for 10 years in 1981 at an interest rate of slightly under 15 percent. The prepayment penalty for that business, should it elect to prepay this year, would be approximately $150,000 or 25 percent of the amount of the loan.

The prepayment penalties illustrated in the above examples are, of course, in addition to the amount of interest owed on these loans.

Although I do not believe that these small businesses should be able to walk away from their obligations, I believe that we ought to be reasonable in the amount of a penalty we are going to charge them to prepay the loan.

The private sector today purchases the financings previously purchased by the Federal financing bank through the CDC Program. The program serves the same purpose, and the debentures are still guaranteed by

SBA, but the difference is that these loans or debentures are sold to private investors rather than to the Federal financing bank. Each of these loans or debentures carries a provision to permit prepayment, upon the payment of a reasonable penalty. That penalty, if the loan is prepaid within 1 year from the date of issuance, is the equivalent of 1 year's interest. Should it be prepaid in later years, the amount of the penalty goes down and is completely eliminated if the remaining life of the loan is less than one-half.

I do not believe that we should extract substantially more from those who do business with the Government than the private sector would require.

Accordingly, our bill (S. 437) provides that any participant in the CDC or Certified Development Company Loan Program may prepay the debentures within the next 3 years and that any participant in the MESBIC or Minority Enterprise Small Business Investment Company program may obtain a write-down of the interest rate within the next year providing they pay a penalty for this privilege. This penalty would be the equivalent of 1 year's interest payments, with a reduction being made for each year of the maturity of the loan which has already elapsed.

Thus in the case of the Florida small business cited above, the penalty under my bill would be $56,250 as compared to $142,000 under existing law. And in the case of the New York MESBIC would be $36,000 as compared to $150,000.

Mr. Speaker, I want to stress that these are not just nameless, faceless small businesses; they are real people. These are not just hypothetical problems, they are real problems and they have a dramatic impact on people's lives. For example, I recently received a letter from a 65-year-old widow who owns a diaper service in San Francisco. She purchased the building which houses it with a first mortgage from an Illinois bank and a second mortgage through an SBA program. Now that she is ready to retire, she has a prospective purchaser for the business, but basically cannot afford to sell out. Although the Illinois bank will release the first mortgage upon payment of a penalty of 1 percent of the amount of the outstanding loan, SBA estimates that the prepayment penalty on her SBA assisted financing would be more than $100,000 on outstanding indebtedness of less than $500,000, or more than 20 percent.

Mr. Speaker, lest those small businesses which are suffering due to these onerous interest rates think that this bill will cure their problems immediately, I must point out that some of them may have to wait up 3 years to obtain assistance. If the small businesses have obtained their assistance through the Certified Development Company Loan Program and if they are financially sound enough to be able to pay off their indebtedness from their own funds or from privately obtained funds, they will be able to pay off their debentures or loans immediately. If, however, they need to obtain new financing through the 504 program in order to pay off the old loan, they may be required to wait.

Due to budget restraints imposed by Gramm-Rudman we simply cannot provide the needed refinancing all in 1 year. Thus we have had to amend the bill to restrict the amount of money under the 504 program which might be used annually to refinance these existing debentures; otherwise, we would not have any money left for new borrowers. The amount of this limitation is $75 million per year of the $450 million which is authorized to these loans each year. Our best estimates are that borrowers owing some $200 million at high interest rates will want to prepay but need additional SBA financial help. Thus we must assume that SBA will approve refinancing of the first $75 million of applications each year and at that rate it may take up to 3 fiscal years before the backlog can be cleared. This is an unfortunate situation, and we have delayed floor consideration of this measure while we sought another solution. But none has been forthcoming.

Mr. Speaker, I want to take this opportunity to thank my colleagues on the Small Business Committee who have cooperated and facilitated consideration, and ultimately passage, of this much needed legislation. I particularly want to thank my ranking minority member, JOE MCDADE.

Mr. Speaker, I reserve the balance of my time.

Mr. IRELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 437. This measure will help to reduce the very high interest rates on debentures guaranteed by the Small Business Administration and help to further reduce the debt burden on small business that have outstanding loans. Many of these firms want to prepay or refinance their loans but cannot do so due to excessively high prepayment penalties charged by the Government. These penalties are higher than those charged by the private sector.

Certified Development Companies [CEC's] issue debentures, with an SBA guarantee, and use the proceeds to provide funds to small businesses for plant and equipment. Since the enactment of Public Law 99-272, these debetures are now sold to private investors. However, all debentures prior to this Public Law were guaranteed by SBA and then sold to the Federal Financing Bank. Some of these debentures, issued in the early 1980's, have interest at 13 to 15 percent rates. Many of these small businesses now would like to refinance these loans at lower interest rates. Others are seeking additional capital and thus need to prepay in order to provide clear title to the underlying security which they must pledge to secure prepayment of the new larger loan. However, the Federal Financing Bank imposes prepayment penalties, sometimes equal to 30 to 40 percent of the amount of the loan, thus effectively precluding the possibility of prepayment.

The private sector today buys the financings previously purchased by the Federal Financing Bank through the CDC program. The program serves the same purpose, and the debentures are still guaranteed by SBA. Today, however, these loans or debentures are sold to private investors rather than to the Federal Financing Bank. Each of these loans or debentures carries a provision to permit prepayment, upon the payment of a reasonable penalty. If the loan is prepaid within 1 year from the date of issuance, the penalty is the equivalent of 1 year's interest. Should it be prepaid in later years, the amount of the penalty is reduced and is completely eliminated if the remaining life of the loan is less than one-half.

S. 437 allows any participant in the CDC or Certified Development Company Loan Program to prepay the debentures within the next 3 years and further enables any participant in the MESBIC or Minority Enterprise Small Business Investment Company Program to obtain a writedown of the interest rate within the next year, providing they pay a penalty for this privilege. This penalty would be equivalent of 1 year's interest payments, with a reduction being made for each year of the maturity of the loan which has already elapsed.

The bill before you today will bring a measure of needed relief to small businesses that are confronting high interest rates and which want to expand their current operations.

I urge my colleagues to support the bill.

Mr. CHANDLER. Mr. Speaker, I rise in strong support of this bill, which would allow refinancing of Small Business Administration loans at fixed interest rates of over 12 percent.

Just a few years ago, when interest rates were at their highest levels, many small businesses took out SBA 503 loans. Now with interest rates down, they wish to refinance these notes, but cannot because of heavy prepayment premiums charged by the Federal Financing Bank—often as high as 35 percent of the remaining principal.

Even SBA itself has been hurt by this policy, unable to refinance 503's that it now holds.

This problem affects less than 25 percent of the $500 million in existing 503 loans. The rest were made during periods of reasonable interest rates.

H.R. 3718 reduces the prepayment penalties imposed on the certified development companies and minority enterprise small business investment companies which hold the 503 loans.

Under the bill, the penalty would now be limited to 1 year's interest on the loan, multiplied by the percentage of time remaining on the loan compared with its original price.

For example, the penalty for a 20-year loan, which was paid off 10 years early, would be 6 months' interest. The penalty would diminish as the loan neared maturity.

The bill permits only $75 million of loans to be prepaid each year, on a first-come-first-served basis, so that the entire outstanding principal could not be prepaid in less than 3 years.

This isn't a perfect solution. Many approaches have been taken here in the House and in the other body, including H.R. 3835, which the gentleman from Washington [Mr. MILLER] and I introduced last year.

And this isn't necessarily the most timely solution. Because of its late consideration, this bill may not be sent to the President before we adjourn for the year. Already, many businesses have failed, including one in my district, because we have not addressed this serious inequity in the 503 loan program.

But a solution is desperately needed, and I strongly urge my colleagues to support passage of this important legislation.

Mr. CONTE. Mr. Speaker, I rise today in support of passage of H.R. 3718 and to commend the chairman of the Small Business Committee, JOHN LAFALCE and the ranking minority, my good friend JOE MCDADE for their foresight and effort on behalf of certified development corporations and minority enterprise small business investment companies.

This bill allows CDC's and MESBIC's to prepay debentures or obtain a write down of interest rates provided that they pay a penalty, a penalty that is just and reasonable.

Mr. Speaker, I am fortunate to have not one but there excellent CDC's serving my district and I know all three welcome this legislation. Therefore, I urge all my colleagues in the House to support the activities of their colleagues on the Small Business Committee and pass H.R. 3718.

Mr. IRELAND. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the Senate bill, S. 437, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PUBLIC SAFETY OFFICERS' DEATH BENEFITS AMENDMENTS OF 1988

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4758) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to increase the level of benefits payable with respect to the death of public safety officers and to provide that nondependent parents may be beneficiaries, as amended.

The Clerk read as follows:

H.R. 4758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Safety Officers' Death Benefits Amendments of 1988".

SEC. 2. AMENDMENTS.

Section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)) is amended—

(1) by striking "$50,000" and inserting "$100,000", and

(2) in paragraph (4) by striking "dependent".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply with respect to injuries sustained after June 21, 1988.

The SPEAKER pro tempore. Is a second demanded?

Mr. GEKAS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4758, the Public Safety Officers' Death Benefits Amendments of 1988, is a simple bill designed to make two important changes in the Public Safety Officers' Benefits Act. First, it increases the amount of the death benefit paid to the survivors of public safety officers killed in the line of duty from $50,000 to $100,000. Second, it eliminates the requirement that parents establish financial dependency on the deceased in order to qualify as beneficiaries.

This bill has no opposition that I am aware of. It has the support of all of the organizations which comprise the public safety community: the police, probation officers, corrections officers, firefighters, and emergency medical technicians.

The Public Safety Officers' Benefits Program was created by the Congress in 1976 to reduce the economic hardship experienced by the immediate families of slain public safety officers. In addition, the Congress sought to demonstrate the high value that our National Government places on the sacrifice that is all too often made by these public servants.

Since its inception, in excess of 2,500 claims have been paid under this program. As of August 31, 176 had been paid in the current fiscal year, amounting to $8.8 million in benefit payments. An average of about 20 claims are paid out each month.

Because of the high risk nature of public safety jobs, the individuals that hold them sometimes encounter problems in obtaining life insurance coverage. Modest salaries often make it difficult for officers to accumulate significant saving that could be used to meet future family needs.

This legislation has become necessary because the cost-of-living has gone up over 90 percent during the past decade and this has reduced the real dollar value of the death benefit to half of what it once was. The Subcommittee on Criminal Justice held a hearing on this legislation on October 29, 1987. We received testimony that in the eleven years since the benefits program was created, the cost of home ownership has risen approximately 150 percent in many areas, and the cost of college tuition has increased 135 percent. During the same period, however, no adjustment has been made in the amount of the death benefit.

One witness, Irene Sudano, the mother of a slain Niles, OH, police officer, testified that all surviving parents of deceased officers, even officers living away from home, should be eligible to receive the death benefit. Under the current statute, if there is no surviving spouse or children, parents who can show that they were financially dependent upon the deceased officer can collect the benefit payment. Parents very often become dependent upon their children for financial support after they reach their senior years. By allowing parents to collect this death benefit, regardless of whether they were dependent at the time of death, we can help make those later years less difficult to endure alone.

The enactment of H.R. 4758 will produce a significant increase in the level of expenditures made annually under the Public Safety Officers' Benefits Act. The program's cost will increase from $10 million to aproximately $20 million per year. I believe, however, that it is imperative that we provide those persons willing to sacrifice themselves protecting our lives and property, the assurance that their families will be provided for if they are killed. The additional $10 million, measured against the security and comfort it can bring, is really a small price to pay.

The protection of the public is a difficult and challenging profession. There are many rewards, but there are also great risks involved. The many thousands of men and women who re-

sponsibly carry out their duties in law enforcement, firefighting, rescue, and emergency medicine, deserve this small measure of increased support. Therefore, I urge all of my colleagues to join me and cast their vote in favor of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Michigan [Mr. CONYERS] has quite adequately described the contents of the bill, and indeed what this is is an updating of the current law. There is no question about the basic fundamental principles imposed in the law as it now is on the books, and what this does is really modernize it, keeping in mind that the cost figures, inflation figures and so forth have to be met from time to time.

The Congress meets its responsibilities in those regards and so many other arenas that it is more than appropriate for it to do so for this piece of legislation.

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The other facet of the presentation made by the gentleman from Michigan [Mr. CONYERS] which is absolutely true is that the support for this legislation is as broad as our interest in law enforcement and covers the proverbial waterfront in the number of organizations and public interest groups that feel that this legislation ought to be passed forthwith.

So I will join with the gentleman from Michigan and hope that the measure receives unanimous support.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, I rise in support of H.R. 4758, Public Safety Officers Death Benefits Amendments of 1988.

This bill will double the death benefit paid to eligible survivors of public safety officers—police and firemen—killed in the line of duty, from $50,000 to $100,000. In addition, it will eliminate the current requirement that parents show they were financially dependent on the deceased officer to qualify for the benefit.

I was a strong supporter and minority floor manager of the original public safety officers benefit bill, enacted into law during the 94th Congress (1976). I felt then and continue to believe, we should demonstrate our concern for those who put their lives on the line to preserve public order and provide for public safety.

Since the act became law in 1976, 2,450 claims have been approved and $122.5 million in benefits have been paid (about $10.5 million a year).

In the past 12 years, there has been no increase in the amount of the death benefit payment which survivors are entitled to receive. Continued increase in the cost of living has meant a 90-percent increase in the Consumer Price Index and a 150 percent increase in the cost of home ownership. To demonstrate the same level of appreciation to our public safety officers, we need to update the level of benefit payable to their survivors just to reflect the realities of life.

In addition, H.R. 4758 would extend the lump-sum benefit to nondependent parents of deceased officers.

Mr. Speaker, this legislation is supported by virtually all police and public safety groups in the country, including: the Fraternal Order of the Police, the Police Executive Research Forum, the National Sheriffs' Association, the International Association of Fire Fighters, the International Association of Fire Chiefs, the International Association of Correctional Officers, and AFSCME. I urge my colleagues' support.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. I thank the gentleman for yielding.

Mr. Speaker, today the House is restoring some simple justice. Since 1976 the real value of the $50,000 death benefit for firemen and law enforcement officers has been eroded because of inflation by half. That is justice, simply just reward.

But today the House does one more thing too.

While this bill was being debated in my district in Hackensack, NJ, five firemen responded to the call of duty. Before that fire was concluded, five men lost their lives.

Because of the leadership of our chairmen, Mr. CONYERS and Mr. RODINO, and because of the assistance of the minority, the gentleman from Pennyslvania, Mr. GEKAS, we can bring justice today not only to those people across the country who in the future might love their lives, but to those five men and others like them who, while we waited for this change, tragically lost their lives as well.

I today, on behalf of their families, would like to thank the committee and Mr. CONYERS in particular for the tremendous sensitivity they have shown to helping these families to cope with their tragic loss.

Mr. Speaker, once again I thank the gentleman for his leadership.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 4758, the Public Safety Officers' Death Benefits Amendments of 1988. I would like to commend the distinguished chairman of the Subcommittee on Crime, the gentleman from Michigan [Mr. CONYERS] and the gentleman from Pennsylvania [Mr. GEKAS] for introducing this bill and for their continued service to our public safety officers.

I was pleased to support the Public Safety Officers' Death Benefits Act when it was first initiated.

Over the years it has provided $50,000 of compensation to the surviving spouses and dependents upon the duty-related death of a public service officer. This modest token of appreciation has not been increased since the enactment of the original law. H.R. 4758 doubles the benefits from $50,000 to $100,000. The bill also drops the dependency requirement for parents of a public safety officer to collect death benefits.

Mr. Speaker, increasing the death benefit for Federal, State, and local public safety officers is the least we can do to commemorate these selfless and dedicated men and women. H.R. 4758 was adopted unanimously by the Judiciary Committee. Accordingly, I urge my colleagues to join in support of this bill.

Mr. RODINO. Mr. Speaker, public safety officers are among the most vital members of any community. Every day, these brave men and women risk their lives to help protect us all. Over 20 years ago, I sponsored legislation to help provide for the financial security of the eligible survivors of officers killed in the line of duty by paying a benefit of $50,000. H.R. 4758, the Public Safety Officers Benefits Amendments of 1988, increases the amount of this death benefit to $100,000. It also eliminates the requirement that surviving parents establish that they were financially dependent on a deceased officer in order to qualify for the benefit.

An increase in the death benefit has become necessary because the cost of living has almost doubled since the law was enacted in 1977, yet, to date, there has been no adjustment in the benefit amount. I believe that the real dollar value of the benefit should be restored to the level at which the Congress originally intended. This will better enable survivors to cope with the sudden loss of their loved ones income as well as provide for future family financial needs.

Parents faced with the loss of a son or daughter engaged in public safety work should not have to document that they were receiving substantial support from the officer before receiving the death benefit. Few parents keep records of the financial help they get from or give to their children. Having to try and meet such a requirement will only add to their emotional distress.

At a time when our Nation is increasing its efforts to combat illegal drugs, and, as a result, the risks associated with law enforcement and other public safety work are also increasing, we cannot fail to provide this additional security to the families of officers who daily place their lives on the line to protect our communities.

Mr. TRAFICANT. Mr. Speaker, I rise in strong support of H.R. 4758, the Public Safety Officers Death Benefits Act. As an original cosponsor of an earlier version of this legislation, I urge my colleagues to lend their support to this much needed bill. I want to applaud Chairman CONYERS for bringing this legislation to the floor and for working so diligently on this initiative. Almost 1 year ago I appeared before this subcommittee on behalf of this initiative and I am pleased to see that the chairman has worked hard to craft a bill that directly meets such an urgent need.

As a former sheriff I understand the unique risks public safety officers take each and every day. I also know the tremendous emotional suffering that results when a public safety officer is killed while on the job. As sheriff of Mahoning County, OH, I had one of my deputies slain in the line of duty.

In addition to the emotional suffering a family must endure when a loved one is killed in the line of duty, many survivors have a difficult time making ends meet financially. Since 1976, when Congress first established a death benefit to eligible survivors of Federal, State, or local public safety officers, the payment level of $50,000 has not been adjusted to account for inflation.

H.R. 4758 attempts to compensate for inflation and reaffirm this Nation's commitment to our public safety officers. H.R. 4758 would raise the benefit to $100,000. It would also allow parents of the deceased to collect death benefits whether or not they were dependent on the slain officer for support.

As a former sheriff, I recognize the immense commitment public safety officers make to their communities. The families of those officers who have made the supreme sacrifice should not have to flounder in financial difficulty. In the 10 years since Congress first established this death benefit prices have gone up 90 percent—compounding the problems of surviving families. Clearly, there is an urgent need for this legislation.

Mr. Speaker, today I would also like to pay tribute to a truly remarkable woman from my congressional district—a woman who has been the moving force behind this legislative initiative: Mrs. Irene Sudano of Niles, OH. Irene's son, Niles Police Detective John Utlak, was killed in December 1982 while doing undercover work on a narcotics case. John's tragic and senseless murder has had a lasting impact on Irene. Mrs. Sudano has shown remarkable courage and fortitude in dealing with this terrible loss. She has dedicated her life to assisting the families of law enforcement officers killed in the line of duty. I want to once again thank her for her courage and commitment to providing much needed help to the law enforcement community and their families.

H.R. 4758 is a good bill and I once again urge my colleagues to support this much needed and long overdue legislation.

Mr. TRAXLER. Mr. Speaker, I am extremely happy that H.R. 4758, the public safety officers death benefit bill, is finally being brought to the floor for consideration. I would like to recognize the leadership of Congressman CONYERS in bringing this legislation to the floor and to thank the many law enforcement, firefighters, and correctional organizations, as well as the active support of the National Rifle Association, for their efforts which are vital to the passage of this legislation.

Early in the 99th Congress, Deputy Dennis R. Martin of the Saginaw County Sheriff's Department in Saginaw brought to my attention the erosion of this benefit by half over the last 10 years due to inflation. I introduced this legislation in the 99th Congress and then again, in the 100th when I introduced H.R. 1016, the Public Safety Officers' Death Benefits Amendments of 1987. I would like to thank Dennis for his tireless efforts in support of this legislation.

Public safety officers risk their lives on a daily basis. It is all for the benefit and safety of you and me. If your house is on fire, firefighters come with equipment, training, and experience to rescue you, your family, and your property.

Law enforcement officers work to apprehend terrorists, murderers, and other dangerous criminal to name just a few of the perils, in addition to the more routine tasks of traffic safety and emergency management.

Emergency medical technicians and ambulance drivers perform rescues and transport the sick and injured at a risk to themselves by speeding to and from accidents.

Correction officers live and work under the threat of violence. Every working day is spent managing the most dangerous elements of society in our overcrowded prisons.

Public safety officers leave personal consideration behind when they go on the job. They are society's first line of defense against threats to public and personal safety. Tragically, these risks mean that several hundred safety officers die in the line of duty every year.

According to Justice Department statistics, 2,134 public safety officers' families have been awarded the death benefit between fiscal year 1977, when the program began, and fiscal year 1986. That is an average of roughly 213 approved claims a year since the program's inception. The current death benefit is $50,000, payable to the surviving spouse, children, or dependent parents of the officer.

According to the Congressional Budget Office, the cost of living has nearly doubled since the program was established. This bill increased the death benefit to $100,000.

Current law requires that the surviving parents of an unmarried officer killed in the line of duty must prove that they are dependent on that officer in order to receive the death benefit. This bill removes the dependency clause and guarantees parents a measure of financial security that might have been provided by the officer in later years if the officer would have survived.

While we can never fully compensate the families' loss, we can help by restoring the death benefit to its original value by increasing it to $100,000, and removing the dependency clause for parents. This bill deserves the support of every Member of the House. I urge my colleagues to support it.

Mr. OXLEY. Mr. Speaker, I wish today to express my strong support for H.R. 4758, the Public Safety Officers' Death Benefits Amendments of 1988. I introduced a similar bill during the 1st session of the 100th Congress, and I am pleased to support this measure. H.R. 4758 would increase the current death benefit for public safety officers who are killed in the line of duty from $50,000 to $100,000. With more illegal drugs on our streets than ever before and the increased threat to law enforcement officials brought about by illegal narcotics, this change is long overdue.

I would like to take a few moments to tell my colleagues how I became involved in this issue. During the fall of 1984, Jeffrey Phegley, from Cincinnati, OH, interned in my Washington office. Jeff was one of those bright, eager young men who you knew was headed for success. During his internship with us, he was willing to do whatever was asked of him—and always with a smile. It was a real pleasure to have this friendly and enthusiastic young man working in my office each day. At the conclusion of his internship with us, he devoted his time working on President Reagan's 1985 inauguration celebration.

Jeff Phegley's dream was to become a police officer. I know it was a proud moment for Jeff and his family when he became an officer with the Morrow, OH, police department. Jeff was well aware of the difficulties and dangers which police officers face, but that did not deter him from the goods he felt he could achieve. Unfortunately, Jeff's opportunities to help his community were cut short. On January 21 1987, Officer Phegley stopped an automobile for a routine traffic citation. While writing the citation, Jeff Phegley was shot and killed. All of us who knew Jeff, but particularly the members of his family, were overwhelmed with shock and despair. We grieved not only for our personal loss, but that this fine young man was deprived of fulfilling what certainly would have been a fine career in law enforcement.

Mr. Speaker, public safety officers go to work daily with the uncertainty that they may not come home. This legislation would not have eased the loss and despair the Phegley family felt, nor will it ease the burden other families feel when an officer makes the supreme sacrifice. However, its passage will certainly ease the financial burden so as not to add to their personal tragedy. I urge my colleagues to support H.R. 4758.

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 4758, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4758, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

COMMISSION ON RACIALLY MOTIVATED VIOLENCE ACT OF 1988

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3914) to establish a commission to investigate racially motivated violence, as amended.

The Clerk read as follows:

H.R. 3914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission on Racially Motivated Violence Act of 1988".

SEC. 2. ESTABLISHMENT OF THE COMMISSION.

There is hereby established a commission to be known as the Commission on Racially Motivated Violence (hereinafter in this Act referred to as the "Commission").

SEC. 3. DUTIES OF THE COMMISSION.

(a) INVESTIGATION.—The Commission shall investigate and make recommendations regarding issues related to racially motivated violence, including—

(1) whether the incidence of acts of racially motivated violence is increasing in the United States,

(2) the causes of, and factors leading to, racially motivated violence and the influence, if any, of specific groups of organizations in causing such violence,

(3) methods and techniques to avert and eliminate racially motivated violence and to achieve racial harmony in the United States, and

(4) the appropriate role of the Federal Government, the States, local governmental units, and community organizations in dealing with racially motivated violence.

(b) INFORMATION COLLECTION; CONSULTATION.—As part of the investigation conducted under subsection (a), the Commission shall—

(1) collect and analyze information and statistics concerning acts of racially motivated violence, and

(2) consult with representatives of groups involved or interested in the protection of the rights of racial minorities.

(c) REPORT.—The Commission shall prepare a report—

(1) specifying the results of the investigation conducted under subsection (a), and

(2) containing such recommendations as the Commission considers appropriate regarding actions to reduce racially motivated violence, including actions that should be undertaken by the Federal Government, the States, local governmental units, and community organizations.

SEC. 4. MEMBERSHIP OF THE COMMISSION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members.

(1) Six members shall be appointed by the President as follows:

(A) One member who is the chief executive officer of a State.

(B) One member who is the chief executive officer of a city in which racially motivated violence has occurred.

(C) One member who is an officer or employee of the United States.

(D) One member who is a local law enforcement officer in a city in which racially motivated violence has occurred.

(E) Two members who are representatives of organizations in the United States that promote the interest of racial minorities.

Not more than 3 members appointed by the President shall be members of the same political party.

(2) Three members shall be appointed by the Speaker of the House of Representatives, in consultation with the minority leader of the House of Representatives, as follows:

(A) Two members, not members of the same political party, of the Committee on the Judiciary of the House of Representatives.

(B) One member who is not a Member of Congress and is specially qualified to serve on the Commission by virtue of such member's education, training, or knowledge, or such member's experience with respect to incidents of racially motivated violence, the consequences of such violence for victims of such violence, or the effect of such violence on society.

(3) Three members shall be appointed by the majority leader of the Senate, in consultation with the minority leader of the Senate, as follows:

(A) Two members, not members of the same political party, of the Committee on the Judiciary of the Senate.

(B) One member who is not a Member of Congress and is specially qualified to serve on the Commission by virtue of such member's education, training, or knowledge, or such member's experience with respect to incidents of racially motivated violence, the consequences of such violence for victims of such violence, or the effect of such violence on society.

(b) FIRST APPOINTMENTS.—Members of the Commission required by subsection (a) to be appointed shall be first appointed not later than 90 days after the date of the enactment of this Act.

(c) CONTINUATION OF MEMBERSHIP.—If a member of the Commission who is appointed under subsection (a)(1), subsection (a)(2)(A), or subsection (a)(3)(A) leaves the office or position that is the basis for appointment, such member may continue as a member of the Commission for not longer than the 60-day period beginning on the date such member leaves such office or position.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment is made.

(e) TERMS.—Members shall be appointed for the life of the Commission.

(f) PAY.—Members of the Commission shall serve without pay.

(g) REIMBURSEMENT OF EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(h) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(i) CHAIRPERSON.—The Commission shall select a chairperson of the Commission from among the members of the Commission.

(j) MEETINGS.—The Commission shall meet the call of the chairperson or a majority of the members. The Commission shall hold its first meeting not later than 45 days after the members of the Commission are first appointed.

SEC. 5. STAFF OF COMMISSION; EXPENSES AND CONSULTANTS; PERSONNEL OF FEDERAL AGENCIES.

(a) DIRECTOR.—The chairperson may, without regard to section 5311(b) of title 5, United States Code, appoint a Director who shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) STAFF.—The chairperson may appoint and fix the pay of such additional staff as the chairperson considers appropriate. Such staff of the Commission may be appointed and paid without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the minimum rate of basic pay payable for grade GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but not to exceed a rate of $200 per day per individual.

(d) PERSONNEL OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

SEC. 6. POWERS OF THE COMMISSION.

(a) HEARINGS AND SESSIONS.—For the purpose of carrying out this Act, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any agency (as defined in section 5520(c)(4) of title 5, United States Code), from any State, and from any political subdivision of a State information necessary to enable the Commission to carry out this Act. Upon request of the chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 7. REPORT.

Not later than 1 year after the first meeting of the Commission, the Commission

shall transmit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate the report required by section 3(c).

SEC. 8. TERMINATION.

The Commission shall cease to exist 60 days after submitting the report required by section 3(c).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act not to exceed $1,000,000 for each fiscal year during which the Commission is in existence.

SEC. 10. DEFINITIONS.

As used in this Act—

(1) the term "Member of Congress" means a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(2) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

The SPEAKER pro tempore. Is a second demanded?

Mr. GEKAS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3914 would establish a national Commission to investigate the causes of racial violence and methods to eliminate it. The Subcommittee on Criminal Justice, which I chair, has heard repeatedly from witnesses about the rising incidence of racially motivated attacks around the country. These are not, however, accurate statistics about hate crimes.

A few private agencies have been collecting data in this area. The Anti-Defamation League of B'nai B'rith [ADL] reported last year, for example, that there was more criminal violence by extremists in the last 3 years than in the previous two decades. A report from the Center for Democratic Renewal documented nearly 3,000 incidents between 1980 and 1986. These reports, however, did not purport to be comprehensive and indicated that a national reporting system was needed to gather accurate data.

The House has already addressed the issue of collecting accurate statistics on hate crimes. On June 24, 1988, the House passed H.R. 3193, the Hate Crimes Statistics Act, by an overwhelming margin of 383 to 29. That legislation requires that the Department of Justice collect and publish statistics on hate crimes for a period of 5 years. The Senate should act soon on a similar measure.

Beyond the issue of collecting data, however, a number of vital questions must be answered. Is there, in fact, an actual increase in racial violence? Why is such an increase occurring at this time? Finally, what steps can be taken to stem further incidents of racial violence, particularly on the part of the Federal, State, and local governments?

H.R. 3914 directs the Commission to address these issues and to report its findings to Congress and the President. The Commission is to consist of 12 members, six appointed by Congress and six by the President. These members would include a State and city executive officer, representatives of organizations promoting minorities' rights, and Members of the House and Senate Judiciary Committees from different political parties. The Commission's fiscal year expenses are limited to $1 million, the average cost for a commission of this size.

The bill was introduced with bipartisan support by Congressman RODINO and FISH, and a wide variety of groups support the legislation, including the American Council on Education, the National Organization of Black Law Enforcement Executives, and the National Association for the Advancement of Colored People.

Twenty years ago, the Kerner Commission explored the roots of the civil unrest and demonstrations in 1967 and recommended an agenda of community outreach, welfare reform, and active desegregation. Much of that agenda was carried out in the next several years. The Kerner Commission showed that a commission, like the one called for in this legislation, can have a significant impact on public attitudes and policy.

The recommendations developed by a Commission on Racially Motivated Violence would provide a new agenda for national action during the next decade, much as the Kerner Commission did 20 years ago. In examining the nature and scope of racial violence, the proposed Commission might recommend tangible solutions and, at the least, draw necessary national attention to the issue.

I urge support for the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. I could not help but hark back to the days of the Kerner Commission and what followed the rendering of its report, a tremendous impact on the lawmakers of the day.

Back then I recall very vividly that in Pennsylvania in the general assembly after the Kerner Commission report was made public that several committees sprang into action to try to reflect the needs as outlined in that Commission. And one of the quotas from the Kerner Commission that looms, I suppose, larger than most of the other themes that were expounded in that report was one which said that every American yearns for his or her own home and that the minorities felt that yearning because of the conditions in which they found themselves in most of their early lives.

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So what did Pennsylvania do? Its legislature went full speed into the crafting of legislation that accommodated that yearning for meeting the needs of people who wanted to live in their own homes or in their own apartments.

So having said that, we have pronounced the Kerner Commission as a success, and it brought about other successes. I look to this present Commission for a similar report which will in the near future provide us with even more fundamental themes upon which this legislative body, as well as all others in our country, can proceed for legislation that will meet the new needs that are going to be pronounced in that document.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I rise in support of H.R. 3914, a bill that provides for the creation of a Commission to examine the causes of racially motivated violence and to recommend preventive solutions.

My distinguished colleague from New Jersey, the chairman of the Judiciary Committee, and I introduced this bill on February 4 of this year because we were struck by clear evidence that racially motivated violence was on the rise in all parts of our country. In January, the Center for Democratic Renewal of the National Council of Churches of Christ reported that it had documented 121 bigotry-motivated murders in our Nation between 1980 and 1986. During that period it also reported there were 145 shootings, 138 bombings, and more than 300 crossburnings. The center noted that there was in fact an average of more than one racial incident per day during these 6 years. The U.S. Community Relations Service of the Department of Justice indicates that race-hate incidents have increased fourfold since 1980 and a shocking 55 percent between 1986 and 1987.

Mr. Speaker, we must appreciate that ours is a multiracial and multiethnic society. It is not our common ancestry or common religion that bonds us together as a nation but instead it is our political culture and our democratic system relying as it does on consent of the governed. To preserve this fragile compact, we must insure that differences between us do not become the cause for violent division.

Mr. Speaker, we can contribute immeasurably to our society in passing this bill providing for the creation of a panel of distinguished Americans to confront current racial violence and to propose solutions. We need reasoned recommendations for Federal, State, local, and private prevention of racism and this Commission will do just that. Not only will this bill be a strong signal of our commitment against racism, and focus national attention on a serious national problem, it will in addition provide the framework that can facilitate strong leadership in the effort to keep our Nation one.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think this is very appropriate, and I thank the ranking minority member of the Subcommittee on Criminal Justice, the gentleman from Pennsylvania [Mr. GEKAS] for his help in bringing this legislation forward. And, of course, the gentleman from New York [Mr. FISH] is the coauthor of the legislation. I think this bipartisan sentiment makes it very clear that the subcommittee does not have its head in the sand with reference to the tenor of the times.

We are in some fragile territory. Twenty years ago, when we had members of the Kerner Commission testify before us, we learned where we were. I remember Detroit when it was going up in flames, and I think that the statements and the understandings we got from the witnesses were very, very helpful. It is ironic that we now need to go back and revisit the current scene in terms of race relations, in terms of gender relations, and in terms of community relations, but I think that the times require that it occur, and I am very, very pleased that this subcommittee has moved forward in such a very expeditious manner.

Mr. Speaker, I thank my colleagues who have participated in this.

Mr. Speaker, I have no further requests for time.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I am pleased to rise in strong support of H.R. 3914, the Commission on Racially Motivated Violence Act of 1988. I would like to comment the distinguished chairman of the committee, the gentleman from New Jersey [Mr. RODINO], the chairman of the Subcommittee on Crime, the gentleman from Michigan [Mr. CONYERS] and the ranking minority member, my good friend, the gentleman from New York [Mr. FISH] and the subcommittee ranking member, the gentleman from Pennsylvania [Mr. GEKAS] for their bipartisan efforts to eliminate racial violence. I would like to take this opportunity to commend the Judiciary Committee chairman, Mr. RODINO, for his countless contributions to the Congress and to the civil rights community, and wish him good health and happiness in his many years ahead.

This year marks the 20th anniversary of the Kerner Commission Report, the first report to examine the nature of race relations and racial violence. In 1987, the Department of Justice received more than 2,000 complaints of hate crimes. In response to an alleged rise in racially oriented violence, H.R. 3914 creates a 12-member Commission to investigate the causes of racial violence and explore methods of eliminating them. Membership shall include six bipartisan members chosen by Congress and six members appointed by the President, including at least one law enforcement officer in a city in which racially motivated violence has occurred, and two members of organizations promoting the interests of racial minorities.

Mr. Speaker, Congress must send a clear signal to all people that racial violence, or any other hate crimes, will not be tolerated. H.R. 3914 was adopted unanimously by the Judiciary Committee. Accordingly, I urge our colleagues to join today in support of this bill.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, the gentleman mentioned the chairman of our committee. I am hopeful that the gentleman from New Jersey [Mr. RODINO] in his next public incarnation would have an opportunity to serve on this Commission, if it is the will of the other body to have this passed into law, and if his name were submitted, I think he would be one very highly appropriate person to bring his experience to bear in this continued way to serve and in this way to help race relations in America.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for this appropriate comments. I am in full support of such a proposal and I know that a substantial number of Members on this side of the aisle would also also support Mr. RODINO's chairmanship of this Commission.

I hope that the gentleman, in making that suggestion, would also consider including the gentleman from New York [Mr. FISH] for appointment to this proposed Commission. Both the gentleman from New Jersey [Mr. RODINO] and the gentleman from New York [Mr. FISH] have strong connections and concerns about racial violence. I know they would diligently serve and would be outstanding representatives of this body on that Commission.

Mr. Speaker, I thank the gentleman for his comments.

Mr. RODINO. Mr. Speaker, H.R. 3914 is a bill I introduced with Mr. FISH to establish a Commission to study racial violence. It is distressing that, nearly three decades since the civil rights movement, such a Commission would be needed. Twenty-five years ago, Martin Lugher King, Jr., envisioned a society of peace and harmony, where people were judged not "by the color of their skin but by the content of their character." But race relations in America are far from such ideals.

In the last several years, reports of racially motivated violence have become more pervasive and more frequent. Attacks against persons because of their race, religion, or creed have occurred in all parts of the United States and against all minority groups. In my own State of New Jersey, black students at Ramapo College demonstrated against the resurgence of racist remarks and graffiti on the predominantly white campus. In Jersey City, the Asian Indian community has been protesting the violent acts of racist individuals who call themselves the "dotbusters."

H.R. 3914 requires the Commission to collect and anaylze statistics on hate crimes and issue a report on its findings 1 year after its first meeting. Its objective is to evaluate the nature of the recent outbreaks of racial violence. With such knowledge, the Commission might then be able to determine causes behind such violent activity and purpose steps to stem the problem. Equally important, it will focus attention on the severity of racial violence.

If we are to fulfill the promise of America as a land where people of all races live and work together in peace and harmony, racially motivated violence must be eliminated. A Commission such as the one proposed in H.R. 3914 is a first step toward that goal.

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 3914, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further, proceedings on ths motion will be postponed.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3914, the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MARIEL CUBAN DETENTION REVIEW ACT OF 1988

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5164) to provide for a hearing before an administrative law judge respecting the release of certain Mariel Cuban detainees.

The Clerk read as follows:

H.R. 5164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mariel Cuban Detention Review Act of 1988".

SEC. 2. HEARING ON RELEASE OF CERTAIN MARIEL CUBAN DETAINEES.

(a) RIGHT TO HEARING.—

(1) IN GENERAL.—Each Mariel Cuban (as defined in subsection (g)) who is detained by or at the direction of the Immigration and Naturalization Service, on or after the date of the enactment of this Act, pending the alien's exclusion hearing or pending the alien's return under section 237 of the Immigration and Nationality Act to Cuba or another country, is entitled to a hearing under this section respecting the alien's continued detention.

(2) TIMING OF HEARINGS.—A hearing under paragraph (1) shall be held with respect to a Mariel Cuban not later than—

(A) 90 days after the date of the alien's exhaustion of any procedures described in section 212.12 (and, if applicable, section 212.13) of title 8, Code of Federal Regulations (as amended on December 28, 1987, 52 Federal Register 48799, and as in effect on the date of the enactment of this Act) with respect to each review under that section, or

(B) if such procedures do not apply, 90 days after the date of the alien's detention by the Service.

(3) NOTICE OF HEARING RIGHTS.—The Attorney General shall provide each Mariel Cuban who is described in paragraph (1) with written notice in English and in Spanish of the hearing rights established under this section and methods for enforcing such rights. Such notice shall be provided—

(A) at the time of a final adverse decision under the procedures described in paragraph (2)(A), or

(B) if such procedures do not apply, at the time of the alien's detention by the Service.

The Attorney General shall secure from each such alien an acknowledgement in writing of the receipt of such notice.

(4) WAIVER.—An alien may waive, before an administrative law judge, each of the following:

(A) The right to a hearing under paragraph (1).

(B) The deadline for such a hearing under paragraph (2).

(C) The assistance of counsel under subsection (b)(2).

(b) NATURE OF HEARING.—

(1) HEARING ON THE RECORD BEFORE ADMINISTRATIVE LAW JUDGE.—Each hearing under this section shall be conducted before an administrative law judge in accordance with the procedures of sections 554 and 556 of title 5, United States Code.

(2) ASSISTANCE OF COUNSEL.—In the case of a Mariel Cuban who is financially unable to obtain adequate representation for purposes of a hearing under this section, the Attorney General shall provide such assistance as may be necessary to obtain appropriate counsel from funds appropriated to Department of Justice. The provisions of section 3006A of title 18, United States Code (relating to adequate representation of defendants) shall apply to representation of Mariel Cubans in hearings under this section in the same manner as such section applies to persons charged with a felony and, for such purpose, references in such section to a United States district court or a judge thereof are deemed references to an administrative law judge in a hearing under this section.

(c) STANDARDS FOR RELEASE.—The Attorney General shall provide for the release from detention of a Mariel Cuban described in subsection (a) unless the administrative law judge determines that the Attorney General has established, by a preponderance of the evidence at a hearing under this section, that—

(1) the alien will pose a threat to the community or to others following the alien's release, or

(2) the alien would violate a reasonable condition of the alien's release, the violation of which would be serious enough to warrant a revocation of the alien's release.

(d) CIRCUMSTANCES OF RELEASE.—

(1) SPONSORSHIP AND PLACEMENT.—A release under this section may only be made into suitable sponsorship or placement in the community and is subject to conditions of release approved by the administrative law judge at the time of the release. The Attorney General is authorized to use, in addition to funds otherwise available and in his discretion, funds appropriated to the Department of Justice for half-way housing and similar placement and sponsorship arrangements for Mariel Cubans who are released under this section. If a release would otherwise be effected under this section but for the inavailability of appropriate half-way housing or similar sponsorship, funds shall be made available from the amounts appropriated for the Department of Justice to assure such a release not later than 60 days after the date such release is ordered under this section.

(2) STAY OF RELEASE.—Based upon—

(A) significant new evidence, not previously discoverable by the Attorney General with due diligence, bearing on the standards described in subsection (c), or

(B) actions of the alien bearing on such standards and occurring since the date of the hearing under this section,

the Attorney General may move, with notice to the alien and any counsel of the alien, to reopen a proceeding under this section. In such case, the filing of the motion shall act to stay the release of the alien for a period, not to exceed 30 days.

(3) REVOCATION OF RELEASE.—The Attorney General, in his discretion, may revoke release provided under this section if the Mariel Cuban violates substantially any condition of release and if the Attorney General determines it is appropriate to enforce an order of exclusion or to commence proceedings against the Mariel Cuban. A Mariel Cuban whose release is so revoked and who is subsequently detained is again entitled to a hearing under subsection (a).

(e) ANNUAL REVIEW OF FILES.—In the case of a Mariel Cuban not released under this section, an administrative law judge shall not less often than annually review the files and other records concerning the alien to determine if there have been changes of circumstances since the most recent hearing under this section to justify the reopening of such a hearing with respect to the alien. The alien shall be given notice and opportunity to submit information for the record before each such review.

(f) NO JUDICIAL REVIEW.—There shall be no judicial review of any determination by an administrative law judge under this section. Nothing in this subsection shall be construed as restricting the right of habeas corpus.

(g) MARIEL CUBAN DEFINED.—In this section, the term "Mariel Cuban" means an alien who is a native of Cuba and last came to the United States between April 15, 1980, and October 20, 1980, and who has not acquired the status of an alien lawfully admitted for permanent residence.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes and the gentleman from Georgia [Mr. SWINDELL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, H.R. 5164 has its genesis in the Mariel Cuban Prison riots which took place in Atlanta and Oakdale last November. My colleagues will recall that the riots broke out when the administration announced that it has entered into an agreement with the Cuban Government under which approximately 2,500 detained Mariel Cubans would be deported to Cuba.

The prison riots were peacefully terminated when the Department of Justice assured the Mariel detainees that each would be reviewed de novo to determine, first, whether the individual was sufficiently dangerous to warrant continued detention, and second, whether the particular individual should be put on the list for deportation.

The administration's "Cuban review plan" was announced in December 1987. Under it, each Mariel Cuban detainee case is reviewed by a panel of Immigration and Naturalization Service Officers to determine releaseability. If the panel recommends against release, the individual is entitled to a second review before a Department of Justice panel which can reverse the INS panel's decision.

When the Cuban review plan went into operation earlier this year it soon became apparent that it did not incorporate a sufficient measure of due process. Specifically, the Cuban review plan:

Does not permit the detainee to call witnesses;

Does not permit the detainee to confront witnesses;

Does not permit the detainee to contest adverse evidence;

Does not place the release power in a neutral or detached adjudicator;

Does not include the right to counsel; and

Places the burden of proof of releaseability on the detainee rather than on the Government.

Mr. Speaker, there can be little doubt that among the 125,000 Mariel Cubans who arrived here in 1980 some were hardened criminals. But even such persons deserve at least a modified form of appropriate due process.

H.R. 5164 would restore such due process to the Mariel detainee. The Bill would:

Give each Mariel detainee the right to a hearing before an administrative law judge;

Provide that the hearing be conducted under the Administrative Procedure Act, which means with the right to call witnesses and test evidence;

Provide for the appointment of counsel; and

Place the burden of proof of detention on the Government.

No dangerous individual would be released under H.R. 5164, since the bill specifically states that detention will be continued if the ALJ finds that "the alien will pose a threat to the community or to others following the alien's release."

Finally, Mr. Speaker, H.R. 5164 deals with releaseability, not with whether an individual should or should not be allowed to remain in the United States, and it would be totally inappropriate to infer from the bill any congressional intent on the question whether a Mariel Cuban should be expelled or permitted to stay.

Mr. Speaker, H.R. 5164 has broad bipartisan support. It was approved unanimously by the Subcommittee on Immigration, Refugees, and International Law and the full Judiciary Committee. I wish to commend the gentleman from Wisconsin [Mr. KASTENMEIER] and the gentleman from Georgia [Mr. SWINDALL] for their extremely valuable contribution to the development of this measure. I urge my colleagues to add their support to this bill so that Mariel Cuban detainees, under our legal system, will receive due process in the review of their detention cases.

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Mr. SWINDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all let me commend the chairman of the Subcommittee on Immigration, Refugees, and International Law as well as the chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice for their efforts to make certain that this legislation not only passed through the committees, but also reached the floor in time to pass during the 100th Congress. It is critical because what we deal with in this legislation is in effect whether or not individuals who are now incarcerated will receive the type of due process that the fifth amendment guarantees to citizens and noncitizens alike.

Mr. Speaker, I think we all remember very vividly what occurred roughly 1 year ago. It was an unprecedented situation because frankly we have never had to face the situation where this number of individuals will not be received back into a country when they are to be deported. Fidel Castro, as you recall, refused to accept these individuals, and, as a result, it placed our immigration system in an unprecedented crisis.

This bill addresses that in this respect: I do not think it would be fair to this Congress to criticize it for a law that was passed at a time that it would have been impossible to have foreseen these circumstances. I do want to say for those individuals like myself who believe that individuals who pose a clear and present threat to society they ought not be released and ought to be deported, that this legislation does not in any way change that.

What it does do is to assure that due process of law attaches in order to answer the question of whether or not they pose any type of threat to society and ought to be deported.

So, it is in that vein that I say this is a remedial piece of legislation that protects both the rights of the individuals incarcerated as well as the rights of the citizens of the United States who may, if they were to be released, be jeopardized or threatened.

Having said all that, I would encourage my colleagues who value the Constitution, who value the principles of the fifth amendment, to vote in favor of this important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I rise in support of H.R. 5164, a bill designed to give Mariel Cuban detainees the basic due process rights to which they are currently not entitled under present law. This bill, of which I am proud to have been an original cosponsor with the chairman and ranking minority member of the Immigration Subcommittee, has enjoyed bipartisan support since its inception. I commend the chairman and members of the Immigration Subcommittee for their attention to this critical matter through their action on both H.R. 5164 and H.R. 5200, a companion bill to H.R. 5164 that would represent a more sweeping improvement of current immigration law as it pertains to detention.

Last February, my subcommittee held the first hearing on the Cuban detainee riots that had occurred in Oakdale and Atlanta during November 1987. During this hearing, it became clear that the two most significant factors contributing to the riots were, first, the indefinite detention of the Cuban detainees and, second, the threat of being returned to Cuba. A couple of months ago, detainees housed at the Federal Correctional Institution in Oxford, WI, staged a hunger strike that, in large part, was motivated by similar concerns. These acts of desperation by the detainees, no matter how ill-advised, personify the frustration they feel being confined to their cells for at least 23 hours each day with no hope of a fair and equitable hearing through which to determine their fates. H.R. 5164 responds to these frustrations by providing the detainees with a fair parole hearing that incorporates minimum standards of due process.

The problems the detainees face need not have required a legislative response. Rather, they could have been addressed through the review plan that the Attorney General implemented shortly after last November's riots—a plan that the Attorney General had promised to be "full, fair, and equitable." Unfortunately, even though more than half of the detainees reviewed under this plan have been deemed releasable, the plan as it exists now is significantly flawed. Under the current plan, review panels are often unprepared or misinformed, the representation of detainees by outside parties, when permitted, is substantially limited, and the quality of translators when requested or required is often substandard.

H.R. 5164 is designed to address these and other procedural inadequacies in the Attorney General's review plan. The final review process that would be added by this bill would ensure that each detainee is protected by the minimum standards of due process. Such minimal due process protections are warranted, in fact demanded, in light of what is at stake for the detainees, namely, deportation to Cuba.

I want to be very clear: H.R. 5164 would not prevent this country from deporting detainees to Cuba. It recognizes, however, the extreme significance of a deportation decision. We must keep in mind that many of the detainees have family and friends in the United States from whom they will be permanently separated if they are deported. In addition, if past experience is any indication, at least one third of the detainees who are returned to Cuba can expect to serve additional time in Cuban prisons upon their return—the same prisons, I might add, that this country condemns as being brutal and inhumane. Accordingly, before we deport any Mariel Cuban detainee to Cuba, we must feel confident that we have provided that detainee with a truly full, fair, and equitable opportunity to demonstrate why he or she should remain in America. I do not believe that we, a country that prides itself in being a leader of human rights throughout the world, could settle for anything less.

In closing, I simply would like to acknowledge all of those people who have given their time and effort on behalf of the detainees. It is through their endless dedication that so many detainees have successfully overcome the obstacles of years of indefinite incarceration and inadequate review plans. It is my hope that the commitment of these volunteers to the rights of the detainees will be matched by our own.

I, therefore, urge passage of both H.R. 5164 and H.R. 5200.

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWINDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 5164.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

LIMITING PERIOD OF DETENTION OF EXCLUDABLE ALIENS PENDING REMOVAL

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5200) to amend the Immigration and Nationality Act to limit the period of detention of excludable aliens pending removal in a manner similar to that provided in the case of deportable aliens pending deportation.

The Clerk read as follows:

H.R. 5200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITING DETENTION OF EXCLUDABLE ALIENS.

(a) IN GENERAL.—Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended by adding at the end the following new paragraph:

"(3) The provisions of subsections (c) and (d) of section 242 (relating to period for effecting deportation and detention, release on bond, or on other conditions, and release under supervision) shall apply to an alien against whom an order of exclusion has been made under this Act in the same manner as they apply to an alien against whom a final order of deportation has been entered under this Act; except that the Attorney General may continue the custody of such an alien if the Attorney General has reason to believe, with respect to that particular alien, that—

"(A) the release of the alien would pose a danger to any other person or to the community,

"(B) the alien meets a condition described in one of the subparagraphs of section 234(h)(2),

"(C) the alien is subject to temporary exclusion under section 235(c) or is inadmissible under section 212(a)(33),

"(D) the alien has violated terms of the alien's release, or

"(E) there is a reasonable likelihood that the alien will abscond.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act and shall apply to orders of exclusions made before, on, or after the date of the enactment of this Act; except that such amendment shall not apply to an alien if the alien, pursuant to the Mariel Cuban Detention Review Act of 1988, becomes entitled to a hearing under section 2 of such Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes and the gentleman from Georgia [Mr. SWINDALL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Georgia [Mr. SWINDALL] is the prime sponsor of H.R. 5200 and has eloquently stated why this bill, H.R. 5200, is so important. In fact, during the consideration of the so-called ins efficiency bill in the 99th Congress the House approved a provision virtually identical to H.R. 5200, a bill, by the way, I have been proud to cosponsor.

Basically, the bill establishes a presumption that after 6 months an excludable alien is releasable. The presumption that an exludable alien is releasable is not new to our immigration law: From 1954 to 1981 it had been Government policy to routinely release arriving aliens on parole, so long as they posed no danger to the community.

In fact, by 1958 our Supreme Court could state in the case of Len Ma V. Barker, that "physical detention of aliens is now the exception, not the rule, and that "certaintly this policy reflects the humane qualities of an enlightened civilization."

H.R. 5200 would return our Government to a more enlightened policy, so that an alien will not be required to remain in indefinite detention simply because his own government, for reasons of its own, will not accept him.

Mr. Speaker, it is important to note that H.R. 5200 would not allow the release of dangerous individuals. It simply creates the proper presumption that an alien is releasable after 6 months. Unless the government shows an appropriate reason to detain him or her.

H.R. 5200 was reported unanimously out of both the Subcomittee on Immigration, Refugees and International Law on August 3 and the full Judiciary Committee on September 28 of this year.

Mr. Speaker, I urge the support of my colleagues for H.R. 5200, and I commend the gentleman from Georgia for his valuable contribution in introducing this bill and in working with the subcommittee and full committee to bring it before the House.

Mr. Speaker, I reserve the balance of my time.

Mr. SWINDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all let me again commend the chairmen of the two committees for their work on this bill.

As the gentleman from Kentucky [Mr. MAZZOLI] stated, this bill is slightly different than the one that preceded it only inasmuch as it addresses the broader, more generic problem. I stated in my statement with respect to the preceding bill that Congress was really with, I think, total exposure for not having been able to anticipate what occurred with respect to the unique situation presented when Fidel Castro refused to accept back these individuals. That, combined with the unprecedented decision by President Jimmy Carter to accept them without entry papers, made for a very unpredictable situation. Now, however, we know that that is within the realm of possibility.

One example that comes to mind is the nation of Nicaragua. I think that we could easily see the exact type situation that we have here attaching in the future with respect to a nation like Nicaragua.

So, the purpose of this bill is to recognize that it is possible for a group of individuals to find themselves in that legal fiction of not being here when, in fact, they are here. As the gentleman from Kentucky [Mr. MAZZOLI] stated, when an individual like the Mariel Cubans arrived on our shores without papers and the President of the United States signs an Executive order waiving the requirement for those papers, they are here. But they are in terms of the eyes of the law excludables rather than deportables. Had they arrived with papers, they would be deportables.

Ordinarily that distinction would be a meaningless one. However, if they violate the terms of the conditions under which they are allowed to come into this country and it is deemed necessary to deport them, and the nation of origin refuses to accept the deportation, you have a situation that we had here in the United States from 1980 until present.

The purpose of this bill is to say that after these individuals remain continuously incarcerated for 6 months, they will be recognized as people who are here, and at that point they will have the same rights as deportable aliens. Specifically, they will have the right of due process of law in much the same fashion that individuals who are out on parole from prison are entitled to a parole revocation hearing before their parole is revoked.

One other point that I would like to make is that the administration had raised issue with respect to the fact that these excludables would obtain by virtue of this legislation the same rights as deportables. Their point is that they are concerned that that would mandate the release of these individuals even if they pose a threat to society. We have taken into account their concerns. We have placed language in the bill that allows the Attorney General to take into consideration those problems and not release them.

Mr. Speaker, I understand that the administration still has some reservations about this, but I would say to the administration and to my colleagues who are concerned about that that it is important here to recognize that these individuals without this type of legislation will basically be placed in the same type of frustrating environment that we have seen with respect to the Mariel Cubans, and, more importantly, we will be giving no more than lipservice to what the fifth amendment says.

Mr. Speaker, the fifth amendment guarantees due process of law to citizens and noncitizens alike, if they are here. And for us to simply say they are not here when we know they are because we have created a legal fiction is not only irresponsible, I think it is unconscionable.

So, I would urge my colleagues to vote for this so we do not find ourselves somewhere down the road, perhaps next year or two decades from now, facing a similar disastrous situation where we cannot say that we could not anticipate it. Mark my words, we have anticipated it. This legislation is the remedy in futura.

With those remarks, Mr. Speaker, I reserve the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWINDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 5200.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MUNICIPAL BANKRUPTCY LAW AMENDMENTS OF 1988

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5347) to amend title 11 of the United States Code with respect to claims payable from special revenues by municipalities that are debtors; and for other purposes, as amended.

The Clerk read the bill as follows:

H.R. 5347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF MUNICIPALITY.

Section 101(31) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "and a municipality" after "partnership"; and

(B) in clause (ii) by striking "and" at the end;

(2) in subparagraph (B)(ii) by adding "and" at the end; and

(3) by adding at the end the following:

"(C) with reference to a municipality, financial condition such that the municipality is—

"(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; or

"(ii) unable to pay its debts as they become due;".

SEC. 2. WHO MAY BE A DEBTOR.

Section 109(c)(3) of title 11, United States Code, is amended by striking "or unable to meet such entity's debts as such debts mature".

SEC. 3. APPLICABILITY OF SECTIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1129(a)(6)," after "1129(a)(3),".

SEC. 4. DEFINITION OF SPECIAL REVENUES.

Section 902 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) 'special revenues' means—

"(A) receipts derived from the ownership, operation, or disposition of projects or systems of the debtor that are primarily used or intended to be used primarily to provide transportation, utility, or other services, including the proceeds of borrowings to finance the projects or systems;

"(B) special excise taxes imposed on particular activities or transactions;

"(C) incremental tax receipts from the benefited area in the case of tax-increment financing;

"(D) other revenues or receipts derived from particular functions of the debtor, whether or not the debtor has other functions; or

"(E) taxes specifically levied to finance one or more projects or systems, excluding receipts from general property, sales, or income taxes (other than tax-increment financing) levied to finance the general purposes of the debtor;".

SEC. 5. AUTOMATIC STAY.

Section 922 of title 11, United States Code, is amended by adding at the end the following:

"(c) If the debtor provides, under section 362, 364, or 922 of this title, adequate protection of the interest of the holder of a claim secured by a lien on property of the debtor and if, notwithstanding such protection such creditor has a claim arising from the stay of action against such property under section 362 or 922 of this title or from the granting of a lien under section 364(d) of this title, then such claim shall be allowable as an administrative expense under section 503(b) of this title.

"(d) Notwithstanding section 362 of this title and subsection (a) of this section, a petition filed under this chapter does not operate as a stay of application of pledged special revenues in a manner consistent with section 927 of this title to payment of indebtedness secured by such revenues.".

SEC. 6. AVOIDING POWERS.

Section 926 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "If"; and

(2) by adding at the end the following:

"(b) A transfer of property of the debtor to or for the benefit of any holder of a bond or note, on account of such bond or note, may not be avoided under section 547 of this title.".

SEC. 7. CLAIMS PAYABLE SOLELY FROM SPECIAL REVENUES.

Chapter 9 of title 11, United States Code, is amended—

(1) by redesignating section 927 as section 930; and

(2) by inserting after section 926 the following:

"§ 927. Limitation on recourse

"The holder of a claim payable solely from special revenues of the debtor under applicable nonbankruptcy law shall not be treated as having recourse against the debtor on account of such claim pursuant to section 1111(b) of this title.".

SEC. 8. POST PETITION EFFECT OF SECURITY INTEREST.

Title 11 of the United States Code is amended by inserting after section 927, as added by section 7, the following:

"§ 928. Post petition effect of security interest

"(a) Notwithstanding section 552(a) of this title and subject to subsection (b) of this section, special revenues acquired by the debtor after the commencement of the case shall remain subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

"(b) Any such lien on special revenues, other than municipal betterment assessments, derived from a project or system shall be subject to the necessary operating expenses of such project or system, as the case may be.".

SEC. 9. MUNICIPAL LEASES.

Title 11 of the United States Code is amended by inserting after section 928, as added by section 8, the following:

"§ 929. Municipal leases

"A lease to a municipality shall not be treated as an executory contract or unexpired lease for the purposes of section 365 or 502(b)(6) of this title solely by reason of its being subject to termination in the event the debtor fails to appropriate rent.".

SEC. 10. CONFIRMATION.

Section 943(b) of title 11, United States Code, is amended—

(1) in paragraph (5) by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) any regulatory or electoral approval necessary under applicable nonbankruptcy law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; and".

SEC. 11. TECHNICAL AMENDMENT.

The table of sections of chapter 9 of title 11, United States Code, is amended by striking the item relating to section 927 and inserting the following:

"Sec. 927. Limitation on recourse.
"Sec. 928. Post petition effect of security interest.
"Sec. 929. Municipal leases.
"Sec. 930. Dismissal.".

SEC. 12. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. EDWARDS] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5347 is legislation I introduced to amend the bankruptcy laws so they will be in conformance with principles of municipal finance. Chapter 9 of the Bankruptcy Code, the primary portion of the code affected by this legislation, is a special part of the bankruptcy laws designed to keep municipalities in existence. A municipality can be a city, a town, or some other public agency. Since many residents depend upon a municipality for their protection, their education, and other necessities of life, a municipality cannot simply be permitted to "go out of business."

It was brought to my attention by members of both the bankruptcy and the municipal finance communities that the current state of the chapter 9 bankruptcy provisions may make it hard for some municipalities to obtain additional financing from lenders. For instance, great concern was expressed about the possibility that a lien held by revenue bondholders could be extinguished if the municipality filed bankruptcy.

H.R. 5347 eliminates this possibility, and provides the assurance that the chapter 9 bankruptcy laws will treat lenders in a manner consistent with applicable principles of municipal finance. The bill was reported by the Committee on the Judiciary by unanimous voice vote on September 27, 1988. It is supported by bankruptcy groups, municipal finance experts, the municipalities themselves, and the State governments.

The amendment to H.R. 5347 is merely a technical change to one of the table of sections in the Bankruptcy Code affected by the legislation.

Mr. Speaker, I urge my colleagues to pass H.R. 5347, as amended.

□ 1430

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to speak in support of H.R. 5347, legislation designed to anticipate serious potential problems that may result from the application to municipal bankruptcy of certain commercial bankruptcy concepts.

Current bankruptcy law fails to recognize the unique features of municipal finance. The National Bankruptcy Conference points out:

Because the worlds of commercial finance and municipal finance are so diverse, the simple incorporation by reference of the 1978 commercial finance concepts into the municipal bankruptcy arena simply did not work.

Without remedial legislation, distinctions between revenue bonds and general obligation bonds may be compromised and municipalities may find themselves unable to market their securities.

If we fail to act, a revenue bondholder may lose the benefit of a lien on special revenues once a bankruptcy case commences. Such a potential result of Bankruptcy Code section 552's incorporation by reference into the municipal bankruptcy chapter is fundamentally unfair to the bondholder. The bondholder, after all, generally cannot acquire a security interest in municipal assets but rather pays for a pledge of future revenues.

H.R. 5347 rectifies the section 552 problem by providing for the continued viability of a lien on special revenues resulting from a prebankruptcy security agreement. In deference to the overriding importance of facilitating a project's continued operations, the legislation subordinates certain liens to necessary operating expenses.

Current law may be interpreted to terminate the operation of a bondholder's lien on revenues 90 days before a bankruptcy filing. This is a potential consequence of the application of Bankruptcy Code, section 547—the preference section—to municipal bankruptcy cases.

H.R. 5347 includes explicit language designed to eliminate the prospect that payments to a holder of a municipal bond or note—during the 90-day period—will constitute an avoidable preference with the potential for recovery by the debtor. By protecting these payments, this legislation recognizes the legitimate interests of holders of municipal securities and removes a possible impediment to the marketability of bonds and notes.

H.R. 5347 also is needed to prevent a holder of a revenue bond from acquiring rights to the general tax revenues of a municipality in a bankruptcy case. Such a conversion of revenue bonds into general obligation bonds may result from an application of Bankruptcy Code section 1111(b).

The necessary legislative response, incorporated in H.R. 5347, is language specifying that a revenue bondholder "shall not be treated as having recourse against the debtor." The result is that a municipality's taxpayers will be protected from an inappropriate burden and State law limitations on general obligation bonds will be respected.

This legislation enjoys overwhelming support. The Subcommittee on Monopolies and Commercial law received favorable testimony presented on behalf of the National League of Cities, the National Bankruptcy Conference, and the National Association of Bond Lawyers. Other organizations endorsing municipal bankruptcy reform include the National Governors' Association, the U.S. Conference of Mayors, the National Conference of State Legislatures, and the National Association of Counties.

This bill is needed to safeguard the legitimate expectations of bondholders and preserve the access of municipalities to necessary financing. I urge my colleagues to join me in supporting H.R. 5347.

Mr. Speaker, I compliment my friend, the gentleman from California [Mr. EDWARDS], for bringing this bill before us, and I urge my colleagues to join me in supporting this measure.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, this legislation makes important Bankruptcy Code changes in recognition of the fact that some bankruptcy principles may be appropriate for commercial financial arrangements but do not make sense in the very different context of municipal financing. The other body has passed a similar bill.

H.R. 5347 is needed to protect the access of municipalities to financing—financing that is essential to a range of public services and projects. The record of our hearing in the Subcommittee on Monopolies and Commercial Law is very instructive.

Iola Williams, a council member and vice mayor from San Jose, CA, explains the urgency of the problem:

[A] single adjudication of a municipal bankruptcy under existing law could have serious impacts on the entire municipal bond market. Because the prospect of bankruptcy under existing laws adds so much additional risk to both general obligation and revenue bonds, it imposes an unnecessary risk premium on our cost of issuing bonds. It means that smaller municipalities or agencies deemed to have greater fiscal problems may well have lost access to the market entirely—impeding their ability to provide schools, streets, jails, and other public facilities.

Chicago attorney James Spiotto, another subcommittee witness, concludes:

It is clear that in practice [Bankruptcy Code Sections] 547, 552(a) and 1111(b) * * *, if strictly applied, could seriously impair not only the ability of the municipality in a chapter 9 [municipal bankruptcy] proceeding to obtain continued financing, but also the ability of other municipalities to obtain needed municipal financing.

A report of the National Bankruptcy Conference warns us:

Chapter 9 as currently written could easily be read to terminate a lien on revenues upon the filing of a municipal bankruptcy by the bond issuer and could also be read to convert bonds payable solely from specific revenues into general obligations of the debtor municipality. These results are wholly inconsistent with municipal finance principles and many State and local constitutional and statutory provisions authorizing the issuance of bonds.

There is a wide consensus on the need for congressional action. Municipal bankruptcy legislation is endorsed enthusiastically by a number of organizations. It treats both municipalities and bondholders fairly.

Mr. Speaker, I want to congratulate the gentleman from Califorinia [Mr. EDWARDS] and the gentleman from New York [Mr. FISH] for their work on this legislation.

Mr. Speaker, I am pleased to cosponsor this bill, and I plan to vote for its passage.

Mr. RODINO. Mr. Speaker, H.R. 5347 is legislation to amend the municipal bankruptcy laws. The legislation was ordered favorably reported to the House by the Committee on the Judiciary by unanimous voice vote on September 27, 1988.

A municipal bankruptcy is the bankruptcy of a city, town, or other public agency or instrumentality. A municipality is different from other debtors who file bankruptcy, because unlike other debtors, a municipality cannot simply go out of business. It must continue to provide its residents with essential services such as sewage and garbage removal, police and fire protection, and schools. Chapter 9 of the Bankruptcy Code is designed to keep municipalities in existence, therefore. It adjusts the debts of a bankrupt municipality.

H.R. 5347, introduced by Mr. EDWARDS of California, is a response to concern voiced by some that several of the general provisions of the Bankruptcy Code may jeopardize the ability of financially troubled debtors to obtain future financing. The Subcommittee on Monopolies and Commercial Law held a hearing on H.R. 3845, the predecessor to H.R. 5347, on September 8, 1988, at which time representatives on behalf of cities and other municipalities, municipal finance groups, and bankruptcy experts uniformly supported the bill.

H.R. 5347 is legislation that will benefit municipalities having financial difficulties. I commend Mr. EDWARDS for his work on this measure, and I urge my colleagues to support it.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the bill, H.R. 5347, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. EDWARDS OF California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5347, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDING THE BANKRUPTCY LAWS WITH RESPECT TO THE REJECTION OF INTELLECTUAL PROPERTY LICENSES

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5348) to amend title 11 of the United States Code with respect to the rejection of executory contracts licensing rights to intellectual property.

The Clerk read as follows:

H.R. 5348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (34) through (51) as paragraphs (36) through (53), respectively,

(2) by inserting after paragraph (33) the following:

"(35) 'mask work' has the meaning given it in section 901(a)(2) of title 17;",

(3) by redesignating paragraphs (32) and (33) as paragraphs (33) and (34), respectively, and

(4) by inserting after paragraph (31) the following:

"(32) 'intellectual property' means—

"(A) trade secret;

"(B) invention, process, design, or plant protected under title 35;

"(C) patent application;

"(D) plant variety;

"(E) work of authorship protected under title 17; or

"(F) mask work protected under chapter 9 of title 17;

to the extent protected by applicable nonbankruptcy law;".

(b) EXECUTORY CONTRACTS LICENSING RIGHTS TO INTELLECTUAL PROPERTY.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(n)(1) If the trustee rejects an executory contract under which the debtor is a licensor of a right to intellectual property, the licensee under such contract may elect—

"(A) to treat such contract as terminated by such rejection if such rejection by the trustee amounts to such a breach as would entitle the licensee to treat such contract as terminated by virtue of its own terms, applicable nonbankruptcy law, or an agreement made by the licensee with another entity; or

"(B) to retain its rights (including a right to enforce any exclusivity provision of such contract, but excluding any other right under applicable nonbankruptcy law to specific performance of such contract) under such contract, and any agreement supplementary to such contract, to such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law), as such rights existed immediately before the case commenced, for—

"(i) the duration of such contract; and

"(ii) any period for which such contract may be extended by the licensee as of right under applicable nonbankruptcy law.

"(2) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, under such contract—

"(A) the trustee shall allow the licensee to exercise such rights:

"(B) the licensee shall make all royalty payments due under such contract for the duration of such contract and for any period described in paragraph (1)(B) of this subsection for which the licensee extends such contract; and

"(C) the licensee shall be deemed to waive—

"(i) any right of setoff it may have with respect to such contract under this title or applicable nonbankruptcy law; and

"(ii) any claim allowable under section 503(b) of this title arising from the performance of such contract.

"(3) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, then on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract, or any agreement supplementary to such contract, provide to the licensee any intellectual property (including such embodiment) held by the trustee; and

"(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment for another entity.

"(4) Unless and until the trustee rejects such contract, on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract or any agreement supplementary to such contract—

"(i) perform such contract; or

"(ii) provide to the licensee such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law) held by the trustee; and

"(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from another entity.".

SEC. 2. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. EDWARDS] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5348 is legislation introduced by me and the gentleman from California [Mr. MOORHEAD] relating to the treatment of intellectual property licenses by the bankruptcy laws. It was favorably reported to the House by the Committee on the Judiciary by unanimous voice vote on September 27, 1988.

Interest in this issue was in large measure sparked by the decision in the Lubrizol case,[1] in which the U.S. Court of Appeals for the Fourth Circuit upheld the bankrupt debtor's rejection of an executory license agreement involving intellectual property, terminating the licensee's use of the technology, without regard to the effect that rejection would have on the licensee or the estate.

At the June 3, 1988, hearing held by the Subcommittee on Monopolies and Commercial Law on this issue, it was made clear by industries that rely heavily on licensing arrangements—particularly high technology companies whose products are vital to our economy—that the Lubrizol case may have a chilling effect on transactions involving the licensing of intellectual property, and, correspondingly, on the development of new technology. H.R. 5348, which applies only to executory contracts under which the debtor is a licensor of a right to intellectual property, eliminates this possibility.

If an executory contract under which the debtor is a licensor of a right to intellectual property is rejected, the bill permits a licensee to continue to use the licensed technology. However, the debtor is relieved from the burdens of performing this contract, other than having to comply with any exclusivity provision as might be included in the contract.

On behalf of Chairman RODINO and the Judiciary Committee, I can state that although the committee is always very reluctant to create any exception to the general treatment of executory contracts by section 365 of the bankruptcy laws, the committee believes the importance of licensing transactions and the development of new technology to our economy justifies granting the exception in H.R. 5348 now.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5348 is important legislation designed to protect intellectual property licenses in bankruptcy cases. The bill is needed to safeguard the licensing process itself, a process that is essential to the development of new technologies and to the promotion of U.S. competitiveness in international markets. Congressional testimony on behalf of Intellectual Property Owners, Inc. emphasizes that "[l]icensing is important to every type of industry which relies on intellectual property, including chemicals, computers and software, electronics, entertainment, pharmaceuticals, and many others."

Licensing may be advantageous for a number of reasons:

First, licensing encourages inventors to devote enormous time and effort to creative endeavors—allowing them to share in the profits.

Second, licensing permits companies to utilize new ideas without the enormous expense associated with outright purchases.

Third, licensing facilitates the application of inventions to a range of products that may be manufactured by a number of different companies.

Under current law, a licensee may lose the use of intellectual property as a result of rejection of the licensing contract in bankruptcy. Concern about the severe consequences of rejection may discourage reliance on licensing arrangements—which can have very serious economic repercussions.

Bankruptcy Code section 365 generally permits assumption or rejection of executory contracts subject to approval of the bankruptcy court. The Court of Appeals for the Fourth Circuit, in *Lubrizol Enterprises* v. *Richmond Metal Finishers,* 756 F.2d 1043 (4th Cir. 1985), concluded that a specific licensing agreement was executory by applying Professor Vern Countryman's test of whether the "obligations of both the bankrupt and the other party to the contract are so far unperformed that the failure of either to complete the performance would constitute a material breach excusing the performance of the others." Id. at 1045.

A debtor-licensor can reject an executory licensing contract. The business judgment standard for judicial approval or rejection, articulated by the Lubrizol court, accords great deference to the licensor's decision. The opinion states: "the issued * * * presented for * * * judicial determination by the bankruptcy court is whether the decision of the debtor that rejection will be advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith or whim or caprice." Id. at 1047. Rejection, under the Lubrizol decision, terminates the licensee's right to use the licensed property and relegates the licensee to a claim for damages.

The unfortunate consequences of the Lubrizol decision justify a congressional response. New York lawyer George Hahn, in a statement presented to the Subcommittee on Monopolies and Commercial Law on behalf of the National Bankruptcy Conference, refers to Lubrizol as creating "a general chilling effect upon the system of licensing rights in intellectual property."

The termination of a licensee's right to use intellectual property may destroy the licensee's business. The intellectual property may be unique—negating the possibility of obtaining an adequate replacement. Intellectual property licensees have special needs that our bankruptcy law must not ignore.

The licensee's right to use intellectual property merits legal protection. It is unfair to strip licensees of rights to use that already have been conveyed to them. Debtor-licensors can be relieved of such future affirmative obligations as servicing the contract or providing training—obligations that may impede reorganization—without disregarding the legitimate interests of licensees in having continued access to intellectual property.

What legislative options are available for correcting the deficiencies of current law?

A comprehensive redrafting of Bankruptcy Code section 365—which covers rejection of a wide range of contracts and contains a number of exceptions—may be an appropriate long-range goal. This cannot, however, be accom-

[1] *Lubrizol Enterprises, Inc.* v. *Richmond Metal Finishers, Inc.,* 756 F.2d 1043 (4th Cir. 1985), *cert. denied,* 106 S. Ct. 1285 (1986).

plished quickly. The impact of current law on intellectual property requires expeditious action.

Legislation articulating a more balanced standard for court review of contract rejections—in place of the business judgment test of the Lubrizol case—is another possibility. The Judiciary Committee, however, has not had an opportunity to consider the advantages and disadvantages of various standards or the implications of particular formulations for the many different kinds of contracts. In addition, the desirability of replacing the business judgment test by legislation rather than awaiting judicial developments—which may offer greater flexibility—is subject to question. Legislation replacing the standard for approving rejections, in any event, does not address—and, therefore, cannot ameliorate—the potentially disastrous consequences of rejection.

H.R. 5348 incorporates language specifically focusing on a rejection's consequences. The bill is tailored to safeguard a licensee's right to use intellectual property. The licensee, in return, must pay for that use-waiving setoffs and claims for administrative expenses that can interfere with the cash flow needed for reorganization. The licensor is relieved of requirements to perform future services—requirements that may prove inconsistent with effectuating the goal of reorganization.

Mr. Speaker, H.R. 5348 fairly reconciles the interests of the participants in licensing arrangements. I urge my colleagues to support it.

□ 1445

Again, I congratulate my friend and colleague, the gentleman from California [Mr. EDWARDS], for bringing this measure before us.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I welcome the opportunity to speak in support of H.R. 5348.

Our bankrupcty law, as interpreted in Lubrizol Enterprises versus Richmond Metal Finishers, discourages intellectual property licensing. This can have unfortunate consequences for the development of American technology—consequences that our Nation cannot afford. Testimony by James Burger of Apple Computer, Inc. describes licensing as "key to the way our [information technology] industry functions."

Remedial legislation is needed to remove the cloud that now hangs over the licensing process. George Hahn, a bankruptcy lawyer appearing on behalf of the National Bankruptcy Conference before the Subcommittee on Monopolies and Commercial Law, explains that "the Lubrizol court wrongly permitted rejection to strip Lubrizol of rights to the use of technology which the debtor, prior to bankruptcy, had conveyed to it."

The bill we are considering today will protect a licensee's use of intellectual property in bankruptcy cases—and at the same time recognize the needs of a debtor-licensor for continued payments. The Senate recently passed similar legislation.

I am delighted to be a cosponsor of H.R. 5348. The bill is meritorious and should be enacted into law.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from California [Mr. EDWARDS] that the House suspend the rules and pass the bill, H.R. 5348.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5348, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

BICENTENNIAL OF THE UNITED STATES CONGRESS COMMEMORATIVE COIN ACT

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5280) to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress, as amended.

The clerk read as follows:

H.R. 5280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bicentennial of the United States Congress Commemorative Coin Act".

SEC. 2. SPECIFICATIONS OF COINS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue not more than 1,000,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each five dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 3,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 4,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of the half dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. On each half dollar coin shall be a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins minted under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN OF COINS.

Notwithstanding any other provision of law, the design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Speaker of the House of Representatives and the President pro tempore of the Senate.

SEC. 5. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint

may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning January 1, 1989.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after June 30, 1990.

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

SEC. 7. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 8. USE OF SURCHARGES.

An amount equal to the amount of all surcharges that are received by the Secretary from the sale of coins minted under this Act shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

The SPEAKER pro tempore. Is a second demanded?

Mr. HILER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and the gentleman from Indiana [Mr. HILER] will be recognized for 20 minutes.

The Chairman recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5280, the Bicentennial of the Congress Commemorative Coin Act is virtually identical to H.R. 3251, which passed both Houses and was signed by the President earlier this year. Unfortunately, for parliamentary reasons unrelated to the merits of the legislation it contained a one day sunset provision, necessitating that we reenact this legislation.

The gentleman from Florida [Mr. FASCELL] is to be congratulated for sponsoring this legislation. He was the author of H.R. 3251 and has been an eloquent proponent of this most worthy coin program. I was proud to be a cosponsor of H.R. 3251, and I am proud to be a cosponsor of H.R. 5280.

H.R. 5280 authorizes the minting of gold, silver, and copper-nickel coins in 1989 in commemoration of the Bicentennial of the Congress. The First Congress met on March 4, 1789. On that day the Constitution went into effect, and our Nation began its glorious history as the world's greatest democracy. If the Constitutional Convention was composed of the architects of our Nation, the Members of the First Congress were the builders who erected the structure of our Government.

Under the legislation, the Mint is authorized to strike up to 1 million gold coins, 3 million silver dollars and 4 million copper-nickel half dollars. The coins will commemorate the work of the First Congress, which created the offices of the executive and judicial branches, and met the people's desire for a Bill of Rights. The coins will be sold to the public by the mint, both singly and in bulk. Advance purchasers will be eligible for a discount, as will bulk purchasers. The coins will also be available to the public through financial institutions, coin dealers, and retailers.

This legislation will also help raise funds to reduce the deficit. I can think of no finer use for the funds raised by the sale of Congress coins than the reduction of the Federal deficit.

Mr. Speaker, this legislation is most worthy of support by this House, and I urge the passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I want to thank my chairman, the gentleman from Illinois [Mr. ANNUNZIO], for those very kind comments and want to applaud him for his efforts on getting this bill before the Congress in the waning days so that this coin bill can move forward.

Mr. Speaker, the bill before us, H.R. 5280, is similar to H.R. 3251 as passed by this House on September 29, 1987. H.R. 3251 was used by the Senate as a procedural mechanism to pass important savings and loan legislation, and the coinage provisions that were part of that bill sunset in a single day. The coinage provisions of H.R. 5280 are, as amended identical to those of H.R. 3251 which I wholeheartedly endorsed.

This bill provides for the U.S. Mint to strike three types of coins to commemorate the 200th anniversary of the Congress celebrated in 1989. The Mint may strike up to 1 million five dollar gold coins, 3 million one dollar silver coins, and 4 million half dollar clad coins. A surcharge will exist of $35 per five dollar coin, $7 per one dollar coin and $1 per half dollar coin. The minting of these coins will be done at no cost to the U.S. Government.

In 1976, the Congress commemorated the Bicentennial of the Declaration of Independence by the use of a special design on the obverse of all quarters that year. Last year we commemorated the Bicentennial of the Constitution by having the Mint strike a special issue of gold and silver coins. The Bicentennial of the Congress represents the next major event in the 5-year long celebration of our Constitution. It is appropriate to recognize the 200th anniversary of this important institution through the issuance of commemorative coins. The U.S. Congress represents the cornerstone of our democracy. It is the forum where the representatives of the American people meet to decide the major issues of the day. This coin legislation would give the American people a way by which they can join in celebrating the history of their institution. The coin is designed to be as affordable as possible so that everyone of this great country can join in the celebration.

Mr. Speaker, I might say to my colleagues who are listening, in this bill, H.R. 5280, as now amended, it is different than the original H.R. 5280 that was going to be debated on the floor this day.

The money that will be the surcharges that will be earned by the selling of the commemorative coins will go to retire the national debt and will not go to the U.S. Capitol Preservation Committee, which there was some controversy about. The administration had originally expressed its concerns about H.R. 5280, with the money going to the Capitol Preservation Commission, and it indicated it would have vetoed that bill, but with the amendment that has now been put in place, I am certain that the administration will have no problem with strictly the commemorative coin part of this bill,

and it is with great pleasure that I endorse this excellent coinage package that the chairman, the gentleman from Illinois [Mr. ANNUNZIO], and the gentleman from Florida [Mr. FASCELL] have put together.

I encourage the Members to join me in passing H.R. 5280.

Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise to reemphasize a point made by the distinguished gentleman from Indiana, and that is that although the administration in its statement of policy dated September 29 indicated that it opposed this bill, it did so in the other form. In the form that this bill is now before the House, I am very confident, as is the gentleman from Indiana, that there will be no objection to it, and I recommend that this bill be passed.

It was the original bill that the distinguished subcommittee chairman brought to us some months ago. Whatever profits are made from the sale of these medals will go directly to the Treasury and will, therefore, be a subtraction from the national debt.

Mr. Speaker, I endorse that kind of policy.

Mr. HILER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 5280, to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress and I commend the distinguished chairman of the House Administration Committee the gentleman from Illinois [Mr. ANNUNZIO] for bringing this measure to the floor at this time.

The minting of new coins is an appropriate way in which to celebrate the bicentennial of the Congress. This legislation would provide for the minting of $5 gold coins, $1 silver coins and half-dollar clad coins. The designs would all be emblematic of the Bicentennial of the United States Congress.

It should be pointed out that all coins minted under this act shall be considered numismatic items and as such will not result in any cost to the U.S. Government.

I am especially pleased that this legislation provides for the $5 gold coins to be struck at the U.S. Mint at West Point, NY. This outstanding minting facility has just completed minting the commemorative Olympic coins and stands ready to honor the U.S. Congress as directed by this act.

Accordingly Mr. Speaker, I urge my colleagues to support H.R. 5280, authorizing coins commemorating the Congress.

Mr. ANNUNZIO. Mr. Speaker, I yield such time as he may consume to the author of this legislation, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of this bill, and I rise to pay my appreciation for the determination and the skill of the members of this subcommittee as well as the staff. I do not believe I have ever seen a bill, Mr. Speaker, that would rival the Perils of Pauline in this Congress, and I cannot do anything except express a deep sense of thanks to all of the Members for being so determined to get a very good bill passed.

Mr. Speaker, I rise in support of H.R. 5280, which I introduced along with our distinguished colleague and chairman of the Consumer Affairs and Coinage Subcommittee, Mr. ANNUNZIO. I would like to thank and commend Chairman ANNUNZIO for his leadership in this effort, and I would also like to recognize his staff for all their hard work on this legislation. As a sponsor of this bill, I fully appreciate the historic and artistic value of commemorative coins, as well as the satisfaction and knowledge which comes from their collection.

The U.S. Mint maintains that one way of reading American history is to study the faces of our country's coins and medals. I agree with this assertion and, as an intermittent and modest collector myself, I realize the educational impact which coin collecting can have, particularly on a youngster. I am still intrigued by a depiction of a great historic figure or event on the face of an American commemorative coin.

Mr. Speaker, in the past, the Congress has authorized commemorative gold and silver coins in celebration of such important events as the anniversaries of the signing of the U.S. Constitution and the Statue of Liberty, as well as the American Eagle coin. In this, the 100th Congress, and in celebration of the upcoming bicentennial of the first session of the newly created Congress in 1989, I strongly believe that this would be a particularly appropriate time to demonstrate the significance of the role which has been played by the Congress in America's history and of its continuing importance. I urge your support for this measure.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HILER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 5280, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5280, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1500

AUTHORIZING USE OF ROTUNDA OF CAPITOL IN HONOR OF JOHN F. KENNEDY

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 137) to provide the use of the rotunda of the Capitol in honor of John F. Kennedy.

The Clerk read as follows:

S. CON. RES. 137

Resolved by the Senate (the House of Representatives concurring), That permission is conferred on the National Council of Returned Peace Corps Volunteers to use the Rotunda of the Capitol, from 12:00 noon, November 21, 1988, until 12:00 noon, November 22, 1988, for a vigil of readings from personal Peace Corps journals by Returned Peace Corps Volunteers in honor of John F. Kennedy, the founder of the Peace Corps, on the 25th anniversary of his death.

The SPEAKER pro tempore (Mr. BENNETT). Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 137 was introduced in order to provide for the use of the rotunda of the Capitol in honor of John F. Kennedy, the founder of the Peace Corps, on the 25th anniversary of his death on behalf of the National Council of Returned Peace Corps volunteers.

The use of the rotunda will provide for a vigil of readings from personal Peace Corps journals by returned Peace Corps volunteers from 12 noon, November 21, 1988, until 12 noon, November 22, 1988.

Mr. Speaker, 121,000 returned Peace Corps volunteers have been invited to attend. Each individual who would like to participate will be asked to speak of a single experience that crystallizes what the Peace Corps meant to them.

The vigil will be followed by a commemorative service at 1 p.m., November 22, 1988, at St. Matthew's Cathedral with Sargent Shriver, Senator EDWARD KENNEDY, Rev. Theodore Hesburgh, and Bill Moyers.

Mr. Speaker, it is only fitting and appropriate that we honor this great man and recognize one of his greatest legacies, the Peace Corps. The program has done so much for so many countries in need around the world. Because of the Peace Corps, hundreds of thousands of people have been given a new opportunity.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill is as described by the distinguished gentlewoman from Ohio [Ms. OAKAR]. It is a wholly appropriate use of the rotunda. The minority urges that the bill be passed.

Mr. Speaker, I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 137).

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FAIR EMPLOYMENT PRACTICES RESOLUTION

Mr. PANETTA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 558) providing for fair employment practices in the House of Representatives.

The Clerk read as follows:

H. RES. 558

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Fair Employment Practices Resolution".

SEC. 2. NONDISCRIMINATION IN HOUSE OF REPRESENTATIVES EMPLOYMENT.

(a) IN GENERAL.—Personnel actions affecting employment positions in the House of Representatives shall be made free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), handicap, or age.

(b) INTERPRETATIONS.—Interpretations under subsection (a) shall reflect the principles of current law, as generally applicable to employment.

(c) CONSTRUCTION.—Subsection (a) does not prohibit the taking into consideration of—

(1) the domicile of an individual with respect to a position under the clerk-hire allowance; or

(2) the political affiliation of an individual with respect to a position under the clerk-hire allowance or a position on the staff of a committee.

SEC. 3. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

The procedure for consideration of alleged violations of section 2 consists of 3 steps as follows:

(1) Step I, Counseling and Mediation, as set forth in section 5.

(2) Step II, Formal Complaint, Hearing, and Review by the Office of Fair Employment Practices, as set forth in section 6.

(3) Step III, Final Review by Review Panel, as set forth in section 7.

SEC. 4. ESTABLISHMENT OF OFFICE OF FAIR EMPLOYMENT PRACTICES.

There is established an Office of Fair Employment Practices (hereafter in this resolution referred to as the "Office"), which shall carry out functions assigned under this resolution. Employees of the Office shall be appointed by, and serve at the pleasure of, the Chairman and the ranking minority party member of the Committee on House Administration, acting jointly, and shall be under the administrative direction of the Clerk of the House of Representatives. The Office shall be located in the District of Columbia and shall begin operation not more than 30 days after the date on which this resolution is agreed to.

SEC. 5. STEP I: COUNSELING AND MEDIATION.

(a) COUNSELING.—An individual aggrieved by an alleged violation of section 2 may request counseling by counselors in the Office, who shall provide information with respect to rights and related matters under that section. A request for counseling shall be made not later than 180 days after the alleged violation and may be oral or written, at the option of the individual. The period for counseling is 30 days. The Office may not notify the employing authority of the counseling before the beginning of mediation or the filing of a formal complaint, whichever occurs first.

(b) MEDIATION.—If, after counseling, the individual desires to proceed, the Office shall attempt to resolve the alleged violation through mediation between the individual and the employing authority.

SEC. 6. STEP II: FORMAL COMPLAINT, HEARING, AND REVIEW BY THE OFFICE OF FAIR EMPLOYMENT PRACTICES.

(a) FORMAL COMPLAINT AND REQUEST FOR HEARING.—Not later than 15 days after the end of the counseling period, the individual may file a formal complaint with the Office. Not later than 10 days after filing the formal complaint, the individual may file with the Office a written request for a hearing on the complaint.

(b) HEARING.—The hearing shall be conducted—

(1) not later than 10 days after filing of the written request under subsection (a), except that the Office may authorize a delay of not more than 30 days for investigation;

(2) on the record by an employee of the Office, and

(3) to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 555 and 556 of title 5, United States Code.

(c) DECISION.—Not later than 20 days after the hearing, the Office shall issue a written decision to the parties. The decision shall clearly state the issues raised by the complaint, and shall contain a determination as to whether a violation of section 2 has occurred.

SEC. 7. STEP III: FINAL REVIEW BY REVIEW PANEL.

(a) IN GENERAL.—Not later than 20 days after issuance of the decision under section 6, any party may seek final review of the decision by filing a written request with the Office. The final review shall be conducted by a panel constituted at the beginning of each Congress and composed of—

(1) 2 elected officers of the House of Representatives, appointed by the Speaker;

(2) 2 employees of the House of Representatives appointed by the minority leader of the House of Representatives;

(3) 2 members of the Committee on House Administration (one of whom shall be appointed as chairman of the panel), appointed by the Chairman of that Committee; and

(4) 2 members of the Committee on House Administration, appointed by the ranking minority party member of that Committee.

If any member of the panel withdraws from a particular review, the appointing authority for such member shall appoint another officer, employee, or Member of the House of Representatives, as the case may be, to be a temporary member of the panel for purposes of that review only.

(b) REVIEW AND DECISION.—The review under this section shall consist of a hearing (conducted in the manner described in section 6(b)(3)), if such hearing is considered necessary by the panel, and an examination of the record, together with any statements or other documents the panel deems appropriate. A tie vote by the panel is an affirmation of the decision of the Office. The panel shall complete the review and submit a written decision to the parties and to the Committee on House Administration not later than 30 days after filing of the request under subsection (a).

SEC. 8. RESOLUTION BY AGREEMENT.

If, after a formal complaint is filed under section 6, the parties resolve the issues involved, the parties shall enter into a written agreement, which shall be effective—

(1) in the case of a matter under review by the Office under section 6, if approved by the Office; and

(2) in the case of a matter under review by a panel under section 7, if approved by the panel.

SEC. 9. REMEDIES.

The Office or a review panel, as the case may be, may order the following remedies:

(1) Monetary compensation, to be paid from the contingent fund of the House of Representatives.

(2) In the case of a serious violation, a payment in addition to compensation under paragraph (2), to be paid from the clerk-hire allowance of a Member of the House, or from personnel funds of a committee of the House or other entity, as appropriate.

(3) Injunctive relief.

(4) Costs and attorney fees.

(5) Employment, reinstatement to employment, or promotion (with or without back pay).

SEC. 10. COSTS OF ATTENDING HEARINGS.

An individual with respect to whom a hearing is held under this resolution shall be reimbursed for actual and reasonable costs of attending the hearing, if the individual resides outside the District of Columbia.

SEC. 11. PROHIBITION OF INTIMIDATION.

Any intimidation of, or reprisal against, any person by an employing authority because of the exercise of a right under this resolution is a violation of section 2.

SEC. 12. CLOSED HEARING AND CONFIDENTIALITY.

All hearings under this resolution shall be closed. All information relating to any procedure under this resolution is confidential, except that a decision of the Office under section 6 or a decision of a review panel under section 7 shall be published, if the decision constitutes a final disposition of the matter.

SEC. 13. EXCLUSIVITY OF PROCEDURES AND REMEDIES.

The procedures and remedies under this resolution are exclusive except to the extent that the Rules of the House of Representatives and the rules of the House Committee on Standards of Official Conduct provide for additional procedures and remedies.

SEC. 14. DEFINITIONS.

As used in this resolution—

(1) the term "employment position" means, with respect to the House of Representatives, a position the pay for which is disbursed by the Clerk of the House of Representatives, and any employment position in a legislative service organization or other entity that is paid through funds derived from the clerk-hire allowance;

(2) the term "employing authority" means, the Member of the House of Representatives or elected officer of the House of Representatives with the power to appoint the employee;

(3) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(4) the term "elected officer of the House of Representatives" means an elected officer of the House of Representatives (other than the Speaker and the Chaplain).

The SPEAKER pro tempore. Is a second demanded?

Mr. ROBERTS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. PANETTA] will be recognized for 20 minutes and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, fair employment practices resolutions (H. Res. 558) is landmark legislation that applies basic Civil Rights protection to employees in the House of Representatives for the first time in history. It is the product of contributions by the authors of employee protection legislation introduced in the 100th Congress: Chairman HAWKINS (H.R. 5060), Representative SCHROEDER (H.R. 4821), Representative MARTIN (H.R. 4576) and Representative BARTLETT (H.R. 4821) and Representatives ECKART and DURBIN were helpful in developing the final compromise.

I want to extend my personal thanks to these Members for their help and cooperation over the past 2 months in developing House Resolution 558.

The following is a brief summary of the resolution:

PROTECTION AGAINST DISCRIMINATION

The resolution provides all House employees and applicants for employment with protection against discrimination based on race, color, national origin, religion, sex (including marital or parental status), handicap, or age. It is based on the Civil Rights Act of 1964's interpretation. This prohibition will not prevent a Member from taking into account an individual's domicile or political affiliation in making employment decisions.

OFFICE OF FAIR EMPLOYMENT PRACTICES AND REVIEW PANEL

An Office of Fair Employment Practices (the Office) is created to counsel, mediate, investigate and hear alleged violations. Personnel in the office will be appointed by the chairman and ranking member of the House Administration Committee.

PROCESS

The process to resolve complaints of violations of the antidiscrimination provision involves three steps.

1. COUNSELING AND MEDIATION

An employee has 180 days from the time of an alleged violation to contact the Office of Fair Employment Practices to request counseling. The counseling period lasts for thirty days. At the end of the thirty day period the individual may proceed to mediation, which is also conducted by the Office.

2. FORMAL COMPLAINT AND A REQUEST FOR A HEARING

Not later than 15 days after the end of the counseling period, the individual may file a formal complaint with the Office. This may be followed by a request for a hearing, which will be on the record and which will allow the individual to be represented. A written decision is issued by the hearing officer within 20 days after completion of the hearing.

3. FINAL REVIEW BY REVIEW PANEL

Either party may seek a final review by the Review Panel. The Review Panel is made up of 4 members of the House Administration Committee—2 Democrats and 2 Republicans—2 House officers appointed by the Speaker and 2 minority employees appointed by the Minority Leader. The Review Panel will examine the record of the hearing by the Office, statements from the parties, and, if necessary, may hold its own hearing. After reviewing the record a written decision is submitted to both parties.

REMEDIES

The remedy options provided by the resolution for application by both the Office and the Review Panel are:

(1) Monetary compensation, to be paid from the contingent fund of the House of Representatives, or from clerk-hire if a serious violation is found.

(2) Injunctive relief.

(3) Costs and attorney fees.

(4) Employment, reinstatement to employment, or promotion (with or without back pay).

The first step in this area was taken last March when the Committee on House Administration adopted a procedure which provides similar protection to employees under the House Officers. This "Adverse Action Procedure" was created because of a commitment to authors of legislation in the 99th Congress to begin developing employee protections for the House of Representatives. A hearing held in August by the Personnel and Police Subcommittee on employee protection legislation marked the beginning of discussions on the next step: extending protection to all House employees. Meetings and negotiations involving the authors of the key legislation continued over the next six weeks and H. Res. 558 is the result.

There is a clear need for the establishment of an employee protection procedure.

First, it is right, there is a basic issue of fairness raised when this body passes laws relating to employment which apply to the private sector and executive branch agencies but excludes the U.S. Congress. Discrimination is just as wrong inside the Congress as outside the Congress. The House is admittedly a unique institution, but that is no reason to exempt it from those basic standards which we apply by law to other Americans. The Civil Rights Act, which the fair employment practices resolution reflects, was passed 24 years ago. It is time that the House adopt those basic civil rights protections which the rest of America has been enjoying for over two decades.

Second, lawsuits against Members of the House are possible because no internal procedure exists to remedy employee complaints of discrimination. With this procedure in place the courts will not accept jurisdiction of discrimination lawsuits by House employees.

Today the only alternative in these situations other than a lawsuit is to go to the news media. But this option does not necessarily lead to a solution of a personnel problem. The fair employment practices resolution will give the employee time for counseling and mediation—which will likely resolve most cases. If the process continues to a hearing or to the Review Panel a written decision on the complaint will exist to establish the facts in the case.

Finally, without this procedure the pressure on the House will increase to adopt proposals which apply Federal employee protection laws to the House with enforcement by Federal agencies. One proposal which could result in the enforcement of the Fair Labor Standards Act by the Labor Department against the House of Representatives has already been adopted by the House Education and Labor Committee as part of the minimum wage amendments (H.R. 1834).

There are strong arguments based on the Constitution's speech or debate clause and the separation of powers doctrine that executive branch agencies should not be allowed to interfere with the essential functions of the legislative branch. The fair employment practices resolution places the responsibility of enforcement within the House of Representatives, thereby preventing executive branch interference and avoiding constitutional problems.

The fair employment practices resolution is a very positive and long overdue step for the House of Representatives. The resolution represents a consensus among the authors of current legislation and it has the endorsement

of the Democratic and Republican leadership. It is a long overdue step in the march for equal rights. I hope Members will join us in supporting the resolution.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor of House Resolution 558, I rise in support of the Fair Employment Practices Resolution. I would like to congratulate the chairman of the full committee, the gentleman from Illinois [Mr. ANNUNZIO] and the chairman of our Subcommittee on Personnel and Police, the gentleman from California [Mr. PANETTA].

Mr. Speaker, while everyone agrees that we need this legislation, I can tell you everyone has not agreed to the specifics. We have had many different proposals before our subcommittee. What Mr. PANETTA has done has been to sort out these various proposals into one piece of legislation that has broad support from both sides of the aisle. He has been working diligently in this regard for many months, and I cannot tell you how many hours have been spent with staff and other Members in countless informal and formal meetings.

And, Mr. Speaker, in this regard I would like to thank Mrs. MARTIN and Mr. BARTLETT for their extensive work. It should be pointed out that not only is it important what legislation is considered in this body, but when as well. Mrs. MARTIN has long been a champion, of equal pay and employee rights within this Congress, resulting in progress in both areas. Mr. BARTLETT saw an opportunity to address the problem of this body passing laws while exempting the Congress from the same requirements we mandate for others. It is accurate to say that this legislation would not be on the suspension calendar had it not been for the leadership efforts of my two colleagues.

Mr. Speaker, this is obviously a concensus solution which may not meet everyone's standards or wishes, but it is a good first step in the right direction.

As our subcommittee chairman, Mr. PANETTA, has described this resolution, it provides for protection against discrimination for the employees of the House of Representatives. It establishes an office of Fair Employment Practices which shall conduct mediation and counseling, and investigate formal complaints, and conduct hearings and reviews.

Now, Mr. Speaker, all of this represents a good first step and we need to pass this resolution and then address the business of statutory legislation in the next session. But, Mr. Speaker, this is an issue that will demand continued oversight and accountability. And, with all due respect, this outfit is long on perception and, in too many instances, mighty short of accountability. If we do not make this procedure work, it will only add to current employee and employer frustrations and concern. Just as important, the Congress is a unique body and we certainly do not wish to cause serious practical and even constitutional problems just so we can wave a banner of reform.

There are practical problems that I anticipate and that we will have to deal with next year. In establishing this office of Fair Employment Practices, we for the first time, have employees appointed by the Committee on House Administration but under the administration of the Clerk. Who is really responsible for this office? Who is going to be accountable?

Mr. Speaker, "counsel" as provided for in the resolution is defined as providing information with respect to rights and related matters. Is that as far as the counseling will go? How far should it go? Will the counseling office become one of de facto arbitration, binding on the employee or employer?

We should thoroughly look at the remedies section. What is a serious violation? What happens if the employer is instructed to reinstate someone but all 18 staff positions are filled? What is injunctive relief? How will we enforce injunctive relief? And, Mr. Speaker, if this is in fact a good first step, have we embarked upon a slow but sure treadmill leading to the point where alphabet soup agencies all over this town will converge on this Congress in and about Member's offices enforcing what we impose on private industry. That, of course, would satisfy the longstanding demagoguery we have witnesssed within this "Glass House." But, what actually happens in terms of practical effect and constitutional problems may be another matter entirely.

So, Mr. Speaker, despite these concerns and the obvious need for careful oversight work, this bill must be, should be, and will be passed. I urge a favorable vote on this resolution, and when we address the issue again in the next Congress, I urge a commitment to make sure we make this overdue legislation work in terms of practical effect.

□ 1515

Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of House Resolution 558, the Fair Employment Practices Resolution. This resolution provides all House employees and applicants for House employment with basic civil rights protections. It protects against discrimination based on race, color, national origin, religion, sex, handicap, or age. However, it permits a Member to employ individuals from their district or State, and permits taking an individual's political affiliation into account when making employment decisions.

The measure further establishes the Office of Fair Employment Practices to mediate, counsel, investigate, and review alleged violations. In addition, it provides a series of remedies for violations.

I believe that this is an important bill because of the lack of employee protections on Capitol Hill, in part, because Congress has exempted itself from antidiscrimination laws. We owe it to our employees to provide basic protections enjoyed by other employees throughout the country.

Mr. Speaker, I urge my colleagues to support passage of this measure.

Mr. ROBERTS. Mr. Speaker, I thank the gentlewoman for her contribution.

Mr. Speaker, I reserve the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to one of the authors of the legislation with whom we worked and who has been very cooperative in this effort, the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman from California [Mr. PANETTA] very, very much for moving this legislation.

Mr. Speaker, first of all I think it is very important that the House do this. When we pass this we will have put ourselves under some very, very important legislation. If you are going to ask for the public trust as we do every two years, you ought to be acting in the public interest.

Since we go around defining that every day, it ought to apply to us, too. That is what this is all about.

A group of us, started by Congressman ROSE in North Carolina, Congressman UDALL in Arizona and myself, about 10 years ago started doing this. There have been about 100 Members of Congress for the last 10 years who have belonged to the Fair Employment Practices Committee where we have put ourselves under these laws.

I think those 100-plus Members should be very proud of the fact that there has been a group of us who have not been afraid to abide by the laws we extended to others. We should point out that those 100-plus Members should get a lot of credit for being ahead of their time, about 10 years ahead of their time.

So we are happy that the rest of the body will be catching up where many Members have been all along.

It is great to have this apply across-the-board because one of the frustrations of that group was that we would

hear from staff people whom we could not help because their Members had not signed our agreement to comply. Now Members will not have the option to opt in or opt out of the agreement; they will all be under it when this legislation passes.

So I really compliment the committees for doing this because I know how hard it has been to do it. Having been out there for 10 years with this in trying to get Members to sign up, I know it is like being the skunk at the garden party. I know the chairman has not had an easy time getting this going, but it is the right thing to do and it is saying we will practice what we preach and it is saying that we will go forward with our head held high saying what we impose on others we too can live by.

After all, it is what America is about, equal opportunity, fairness, civil rights and equal rights for every single human being.

So I compliment the gentleman from California and his making this happen. Believe me, I did not think it ever would happen.

So congratulations and thanks for his patience in putting this all together.

Mr. ROBERTS. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas [Mr. BARTLETT] without whose help this never would have happened.

Mr. BARTLETT. First of all, I thank the gentleman from Kansas for his kind words. This is legislation that is long overdue. It is bipartisan legislation. It is not perfect legislation perhaps, but it is legislation that will work, that will do its job, that will provide both a sense of confidentiality and justice for both sides of the issue.

I would also take note of what the gentleman from Kansas said on the issue and that is that this legislation is more than just adopting a title of a bill, but, in fact, this legislation is substantive and has been designed to get the job done.

I congratulate the gentleman from Kansas without whose leadership this legislation would not have occurred. Also, the gentleman from California [Mr. PANETTA] for his hard work on the proposal to make certain that it is drafted correctly.

I will note that this is one of several items of legislation that at some point will need to be passed.

Even with this legislation passed, Congress will still continue to be exempt from a variety of Federal laws that apply to the rest of the country but it does seem to me that this is the correct one to start with and this is one that is surely a problem in need of a solution.

I would like to take just a moment to comment on several of the items that will make this legislation, the Fair Employment Practices Resolution, work.

First of all, it does track the Equal Employment Opportunity Commission explicitly. Every question that one can ask as to how it will work can be answered by saying it will work in roughly the same way as EEOC works today.

Second, it is enforced, however, internally. I think there is a good deal of support for that in this body in terms of the internal enforcement so that the review panel and the general counsel will take the place of the EEOC and the courts so that they will track the enforcement patterns of the EEOC but it will avoid any constitutional questions.

Second, in section 2(a), it does provide that the principles of current law as it applies to employment practices will also be held to apply here.

So that as Members of Congress are looking to determine what exactly applies to them, then in fact it will track the same principles that are in current law under EEOC law.

It does explicitly grant employees and applicants alike protection against discrimination based on race, color, national origin, religion, sex, including marital or parental status, handicap or age. That is an explicit granting of rights.

It provides for both counsel and mediation but does not exclude the right of an aggrieved employee or applicant the absolute right to file a complaint regardless of the outcome of the counseling or mediation.

One other note, and that is I want to make careful mention that the remedies in this legislation are precisely the same as the remedies that are available under EEOC. The implementation or decision for those remedies will be made by the review panel but those remedies could include some or all of monetary compensation. In the case of a serious violation, a payment in addition to compensation under paragraph 2 to be paid from clerk hire. It includes injunctive relief costs and attorney's fees to be paid from the contingent fund, employment reinstatement to employment or promotion. The legislation also includes a key provision against intimidation so that no employer can come back and provide some sort of ex parte intimidation on the aggrieved or alleged aggrieved employee.

It has been said for some time with legislation such as this that—the words are always spoken "the time has come for Congress to include itself in the laws that apply to the rest of the country." It seems to me that today at least with regard to EEOC law we can justifiably say that the time has arrived.

Mr. ROBERTS. I thank the gentleman for his contribution.

Mr. Speaker, I yield 1 minute to my friend and colleague, the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Speaker, I rise in strong support of House Resolution 558, the Fair Employment Practices Resolution. I wish to commend the gentleman from California [Mr. PANETTA], and the gentleman from Kansas [Mr. ROBERTS] for bringing House Resolution 558 to the floor—I also want to commend the gentlewoman from Illinois [Mrs. MARTIN] for her leadership. In this landmark 100th Congress, it is indeed fitting that the House of Representatives enacts such sweeping House administration policy.

Monthly, in major newspapers throughout the country, we have read the shocking accounts of discriminatory and harassing treatment of Members' personal staffs. Staff members, caught in these untenable situations say nothing about these inequitable office practices for fear of jeopardizing future employment opportunities on Capitol Hill.

Do these dedicated and hardworking men and women, who daily serve their country, deserve any less than the fair redress of offensive grievances? I think not!

No one should be exempt from the laws of our Nation—particularly Members of Congress. House Resolution 558 issues a new rule for the House of Representatives, that is an old rule for the rest of the country, prohibiting discrimination against House employees on grounds of race, color, national origin, sex, age or handicap. Members may require that their own staff members share their political affiliation and come from their home districts. The legislation also establishes an independent Office of Fair Employment Practices which will investigate, mediate, counsel and review alleged violations.

Many employees of the House face frustrating uncertainty every 2 years about the continuity and longevity of their positions. With the passage of House Resolution 558, House employees will have the peace of mind that for however long they may have their jobs, there will be an avenue to air all employment discrimination.

I urge my colleagues to support and pass this commendable legislative measure.

Mr. ROBERTS. Mr. Speaker, I yield 5 minutes to my good friend, the gentlewoman from Illinois [Mrs. MARTIN]. I said before this legislation would not have taken place without her help. I cannot count the number of times that she has appeared before the Committee on House Administration with regard to the whole pay issue, with regard to the quality. I thank the gentlewoman for her contribution.

Mr. Speaker, she has been a force in this legislation. If, in fact, it were not for the case that her force had been with us, if you will pardon that terrible pun, we would not be here today.

Mrs. MARTIN of Illinois. My thanks to the gentleman from Kansas [Mr. ROBERTS].

Often when we are busy thanking each other, I am reminded of what we used to call sort of the doughnut committee back at school where you thanked so many people you lost track of the meeting. But I must say when you are being thanked it is rather nice. So that was extraordinarily kind.

Mr. Speaker, I wonder if the gentleman from California would rise so that we may engage in a colloquy about House Resolution 558.

Mr. PANETTA. I would be pleased to do that.

Mrs. MARTIN of Illinois. Mr. Speaker, on June 1, 1989, the House will have had 6 months to assess the Office Fair Employment Practices and the complaint and resolution procedures which this resolution provides.

It is my understanding that as soon after that date as possible and before the end of that month, the majority leadership of the House will bring to the floor legislation to carry today's accomplishment forward by providing for an extension of title VII of the Civil Rights Act of 1964 to include in its coverage all employees of Congress, House, and Senate, as well as employees of the judiciary. Is this understanding correct?

Mr. PANETTA. Mr. Speaker, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I yield to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. I thank the gentlewoman for yielding.

Mr. Speaker, the gentlewoman's understanding is correct. We certainly will move in that direction.

Mrs. MARTIN of Illinois. I thank the gentleman. I would like to say something about the gentleman from California and the gentleman from Kansas. I am not sure this is allowed under House rules, but I did not believe the gentleman from California when he came forward to talk about trying to work out an accommodation. I thought it would not occur. I thought it was another reason to wait another year, reasons I have been hearing for a long time on bill after bill.

That was not true. The gentleman acted not only in good faith but with rare ability. He should have a public thanks from me who has differed with him on the speed with which this has occurred often, that he entered the discussion well and handled a difficult problem with ability.

That can be seconded for the gentleman from Kansas who had reluctance on many issues because of his concern for the House and its institution. He handled those concerns always, in not just a mature way but made me rethink through things better and both of them make me proud to be their colleague.

Thanks which they are not expecting, also, to two members of the committee, the gentlewoman from Nevada, Mrs. VUCANOVICH and the gentlewoman from Ohio, MARY ROSE OAKAR who, though they did not wish to, had special responsibilities. It is something that we understand and I think it ultimately proved to be of great help.

And to the Congresswoman from Colorado [Mrs. SCHROEDER] who had to work a long time. Sometimes it is easier for the minority ultimately to bang around the majority. I understand the difficulties that they had.

□ 1530

And here is the last "Thank you": This is not meant to take 5 minutes, and it is not a prepared speech. To the person who works on the elevator, to the person who works downstairs in the mail room, to the bright young black man who has come to work here on the D.C. Committee, to every bright young woman who has tried to work here and has sometimes worked under circumstances that are difficult to really appreciate, because they are few, but they were there, to everyone who phoned me and said, "Please continue," to everyone who still stayed loyal to us and continued to work for us and for the House as an institution, to all of you who waited when deep down there was no reason you should have had to, on behalf of the House, I say, "Thank you." This bill is for you, and we are going to pass it today for you.

Mr. LAGOMARSINO. Mr. Speaker, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I am happy to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I want to commend the gentlewoman from Illinois for her efforts on behalf of this subject and other subjects related to the topic of what the House does not do to itself as is required of the general public and business and everyone else. It seems to me, although this is not perfect legislation, that it is a good start, and I think the gentlewoman in the well deserved a lot of credit for what has happened here. I just want to pay tribute to the gentlewoman in that respect.

Mrs. MARTIN of Illinois. Mr. Speaker, before I finish, just let me say that there is a note on this one that we can share on the President's desk—"If you don't care who gets the credit, we can get a lot accomplished."

I think we can all agree with that, Mr. Speaker.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from Illinois for her pertinent and very eloquent remarks.

Mr. Speaker, I yield 2 minutes to the ranking member of the full committee, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, more than a dozen years ago I made a motion in a now defunct commission in the House of Representatives to have the antidiscrimination laws apply to all employees of the House. I was told at the time that that was a dishonorable motion, and that the House should not be involved in such things. Subsequent to that time, the gentlewoman from Colorado [Mrs. SCHROEDER] and the gentleman from Arizona [Mr. UDALL] built their own voluntary operation. Later on we had judicial steps in the field, but now we are taking the first legislative step of the House of Representatives to remove these vestiges of a perception that discrimination is a profitable business in the House of Representatives.

I give most of the credit to our friend, the gentlewoman from Illinois [Mrs. MARTIN], but she does not labor alone. There have been many people helping her, certainly among them the subcommittee chairman, the gentleman from California [Mr. PANETTA]. This is a very small step we are taking, but it is a powerful signal that the House will not falter in the march toward a more perfect democracy.

This House has been perfectly willing in all sorts of legislation to make people responsible for things that often they had very great difficulty controlling, including the Foreign Corrupt Practices Act and various antidiscrimination acts, and now we are finally beginning to lay it on ourselves.

Standing alone, House Resolution 558 will do little or nothing. As a matter of fact, it has to be followed by a new rule next year or a new law. It has to be enforced, and it must be extended if we are to do what we say we mean to do. I think we do, and I think this is a proud day for the House of Representatives.

Mr. Speaker, I am especially pleased that the gentlewoman from Illinois, who could have had a fun issue to play with, has really made it a goal, not an issue, and we have had a true bipartisan achievement in bringing House Resolution 558 before the Members.

Mr. Speaker, I hope the resolution will be swiftly passed.

Mr. ROBERTS. Mr. Speaker, I reserve the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Ohio [Ms. OAKAR], who has also provided a great deal of leadership on this issue.

Ms. OAKAR. Mr. Speaker, I want to join with my colleagues in congratulating the chairman of the subcommit-

tee, the gentlewoman from Illinois [Mrs. MARTIN], as well as the gentleman from Arizona [Mr. UDALL] and others who have consistently spoken out on this issue. I commend the gentlewoman from Illinois and the gentlewoman from Colorado [Mrs. SCHROEDER]. We do not want to leave anybody out.

I think there are some points that need to be made here, and one is that this really is based on an idea that the gentleman from Minnesota [Mr. FRENZEL] pioneered, an idea that the gentlewoman from Colorado [Mrs. SCHROEDER] and the gentleman from Arizona [Mr. UDALL] and others had, that we ought to sign up and give our employees the same kind of grievance procedure under the law that other employees in the private and public sector can get. That is simply what we are doing here, no more and no less. We do not cast any aspersions on Congress, because I am personally of the opinion that the majority of individuals in this country, let alone Congress, really intend to treat their employees fairly. However, there ought to be a vehicle by which our employees have an opportunity to voice concerns with respect to their employment.

In this resolution we are very, very clear that we are talking about something that is very fundamental, that under the law we cannot discriminate. That is basically what this is. We do not talk about what people should be paid or in terms of how many people within the context of the rules we have to hire or what types of people we have to hire and for what jobs. We have to make that very, very clear.

This piece of legislation fundamentally is different from the pay equity bill that we passed last week. The bill that passed last week affects the almost 2 million Federal employees who are not part of the legislative branch but are part of a classification system. I would hope that the same Members who would support this bill would have supported that bill, because they both deal with fairness.

Mr. Speaker, I would hope that the Senate would follow our example on this bill, and I hope they will also follow our example on the bill that we passed last week as well.

Mr. HAWKINS. Mr. Speaker, as an original cosponsor of House Resolution 558, I rise in very strong support of this long-overdue proposal. The measure before us today is not as extensive as that I proposed in H.R. 5060 but it is a very well presented first step and I urge all my colleagues to support its passage.

I wish to take this opportunity as well to commend my friend and colleague, Congressman LEON PANETTA for his diligence in pursuing this bipartisan compromise. As my colleagues well know, there were many and varied views on how best to provide civil rights and labor law protections for our employees, and from these Mr. PANETTA had the difficult task of forging the compromise now before you. I believe he has accomplished much in this effort.

The resolution before you creates a right in each employee of the House of Representatives to be free from discrimination based on race, color, national origin, religion, sex, including marital or parental status, handicap or age. It further provides, what I believe to be, a fair and workable complaint and review procedure by which to enforce these rights. It reflects a sensitive balance between protecting the employee's rights and the employer's concern with frivolous charges.

Providing congressional employees with the guarantees and protections of our civil rights laws that are now and have been for decades afforded employees in the private sector is, in my view, something this institution should have done years ago.

While affirming with the passage of the Civil Rights Act of 1964, and its progeny, the principle that moneys appropriated and distributed by the U.S. Congress as a whole could not support, directly or indirectly, any act of discrimination, we have continually left Members of Congress themselves free to discriminate. While imposing a nondiscrimination duty on employers engaging in interstate commerce, the Congress as an employer failed to see its own responsibility in this area. It is now time to reaffirm our commitment to civil rights generally by specifically insuring basic civil rights to our own employees. In principle and in practice we can do no less.

With the passage of this House resolution, we can for the first time legitimately hang out the sign that says we are equal opportunity employers and that is good; but, my colleagues, it is, as I have indicated, only a first step, as there are other protections and rights which must be afforded congressional employees if they are to stand equally protected to those in the private sector. While these additional protections need to be reviewed and considered further I today urge my colleagues to stand and unanimously take this important first step by passing House Resolution 558.

Mr. SMITH of Texas. Mr. Speaker, I am pleased that the House is about to act on the Fair Employment Practices Act, which will give some measure of protection to staff members in the exercise of their duties here in Congress.

For too long, House employees have had no avenue of appeal when they feel an injustice has occurred in the course of their employment. It is unconscionable that we in Congress have been unwilling to apply to ourselves the same principles of fairness and accountability that we place upon private employers and the executive branch of Government.

Americans expect honesty, integrity, and accountability from Members of Congress. The Fair Employment Practices Act is a good beginning in restoring American's faith in their public institutions.

Ms. SNOWE. Mr. Speaker, I rise in support of House Resolution 558, the House Fair Employment Practices Act.

In 1964, Congress passed landmark legislation, the Civil Rights Act, which provided basic civil rights protections for most American citizens. However, this did not cover our own employees.

Most recently, this Congress passed the Civil Rights Restoration Act which reiterated our responsibility to see that Federal funds do not in any form support discriminatory actions. However, again, we did not protect our own employees.

For over 24 years, our employees have not been provided protection from discrimination guaranteed all other American citizens. The question we must raise is why should Congress not have to comply with the laws Congress passes?

The answer is simply that Congress should comply with these laws. Our employees provide us with valuable service, yet currently have no recourse when confronted with discrimination. Entering employment of Congress shouldn't be tantamount to entering a black hole of employment rights.

Today we have the opportunity to pass legislation to rectify this situation, and I urge my colleagues to support this long-overdue step.

Mr. PANETTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. PANETTA] that the House suspend the rules and agree to the resolution, House Resolution 558.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 558, the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California [Mr. PANETTA]?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

WHISTLEBLOWER PROTECTION ACT OF 1988

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 508) to amend title 5, United States Code, to strengthen

the protections available to Federal employees against prohibited personnel practices, and for other purposes, as amended.

The Clerk read as follows:

S. 508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Whistleblower Protection Act of 1988".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Federal employees who make disclosures described in section 2302(b)(8) of title 5, United States Code, serve the public interest by assisting in the elimination of fraud, waste, abuse, and unnecessary Government expenditures;

(2) protecting employees who disclose Government illegality, waste, and corruption is a major step toward a more effective civil service; and

(3) in passing the Civil Service Reform Act of 1978, Congress established the Office of Special Counsel to protect whistleblowers (those individuals who make disclosures described in such section 2302(b)(8)) from reprisal.

(b) PURPOSE.—The purpose of this Act is to strengthen and improve protection for the rights of Federal employees, to prevent reprisals, and to help eliminate wrongdoing within the Government by—

(1) mandating that employees should not suffer adverse consequences as a result of prohibited personnel practices; and

(2) establishing—

(A) that the primary role of the Office of Special Counsel is to protect employees, especially whistleblowers, from prohibited personnel practices;

(B) that the Office of Special Counsel shall act in the interests of employees who seek assistance from the Office of Special Counsel; and

(C) that while disciplining those who commit prohibited personnel practices may be used as a means by which to help accomplish that goal, the protection of individuals who are the subject of prohibited personnel practices remains the paramount consideration.

SEC. 3. MERIT SYSTEMS PROTECTION BOARD; OFFICE OF SPECIAL COUNSEL; INDIVIDUAL RIGHT OF ACTION.

(a) IN GENERAL.—Chapter 12 of title 5, United States Code, is amended to read as follows:

"CHAPTER 12—MERIT SYSTEMS PROTECTION BOARD, OFFICE OF SPECIAL COUNSEL, AND EMPLOYEE RIGHT OF ACTION

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

"§ 1201. Appointment of members of the Merit Systems Protection Board

"The Merit Systems Protection Board is composed of 3 members appointed by the President, by and with the advice and consent of the Senate, not more than 2 of whom may be adherents of the same political party. The members of the Board shall be individuals who, by demonstrated ability, background, training, or experience are especially qualified to carry out the functions of the Board. No member of the Board may hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President. The Board shall have an official seal which shall be judicially noticed. The Board shall have its principal office in the District of Columbia and may have field offices in other appropriate locations.

"§ 1202. Term of office; filling vacancies; removal

"(a) The term of office of each member of the Merit Systems Protection Board is 7 years.

"(b) A member appointed to fill a vacancy occurring before the end of a term of office of the member's predecessor serves for the remainder of that term. Any appointment to fill a vacancy is subject to the requirements of section 1201.

"(c) Any member appointed for a 7-year term may not be reappointed to any following term but may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that such member may not continue to serve for more than 1 year after the date on which the term of the member would otherwise expire under this section.

"(d) Any member may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

"§ 1203. Chairman; Vice Chairman

"(a) The President shall from time to time appoint, by and with the advice and consent of the Senate, one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board.

"(b) The President shall from time to time designate one of the members of the Board as Vice Chairman of the Board. During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

"(c) During the absence or disability of both the Chairman and the Vice Chairman, or when the offices of Chairman and Vice Chairman are vacant, the remaining Board member shall perform the functions vested in the Chairman.

"§ 1204. Powers and functions of the Merit Systems Protection Board

"(a) The Merit Systems Protection Board shall—

"(1) hear, adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, section 2023 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of law, take final action on any such matter;

"(2) order any Federal agency or employee to comply with any order or decision issued by the Board under the authority granted under paragraph (1) and enforce compliance with any such order;

"(3) conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected; and

"(4) review, as provided in subsection (f), rules and regulations of the Office of Personnel Management.

"(b)(1) Any member of the Merit Systems Protection Board, any administrative law judge appointed by the Board under section 3105, and any employee of the Board designated by the Board may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) Any member of the Board, any administrative law judge appointed by the Board under section 3105, and any employee of the Board designated by the Board may, with respect to any individual—

"(A) issue subpoenas requiring the attendance and presentation of testimony of any such individual, and the production of documentary or other evidence from any place in the United States, any territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; and

"(B) order the taking of depositions from, and responses to written interrogatories by, any such individual.

"(3) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"(c) In the case of contumacy or failure to obey a subpoena issued under subsection (b)(2)(A), upon application by the Board, the United States district court for the district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(d) A subpoena referred to in subsection (b)(2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in such manner as the Federal Rules of Civil Procedure prescribe for service of a subpoena in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such individual, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance

under this subsection by such individual that such court would have if such individual were personally within the jurisdiction of such court.

"(e)(1)(A) In any proceeding under subsection (a)(1), any member of the Board may request from the Director of the Office of Personnel Management an advisory opinion concerning the interpretation of any rule, regulation, or other policy directive promulgated by the Office of Personnel Management.

"(B)(i) The Merit Systems Protection Board may, during an investigation by the Office of Special Counsel or during the pendency of any proceeding before the Board, issue any order which may be necessary to protect a witness or other individual from harassment, except that an agency (other than the Office of Special Counsel) may not request any such order with regard to an investigation by the Office of Special Counsel from the Board during such investigation.

"(ii) An order issued under this subparagraph may be enforced in the same manner as provided for under paragraph (2) with respect to any order under subsection (a)(2).

"(2)(A) In enforcing compliance with any order under subsection (a)(2), the Board may order that any employee charged with complying with such order, other than an employee appointed by the President by and with the advice and consent of the Senate, shall not be entitled to receive payment for service as an employee during any period that the order has not been complied with. The Board shall certify to the Comptroller General of the United States that such an order has been issued, and no payment shall be made out of the Treasury of the United States for any service specified in such order.

"(B) The Board shall prescribe regulations under which any employee who is aggrieved by the failure of any other employee to comply with an order of the Board may petition the Board to exercise its authority under subparagraph (A).

"(3) In carrying out any study under subsection (a)(3), the Board shall make such inquiries as may be necessary and, unless otherwise prohibited by law, shall have access to personnel records or information collected by the Office of Personnel Management and may require additional reports from other agencies as needed.

"(f)(1) At any time after the effective date of any rule or regulation issued by the Director of the Office of Personnel Management in carrying out functions under section 1103, the Board shall review any provision of such rule or regulation—

"(A) on its own motion;

"(B) on the granting by the Board, in its sole discretion, of any petition for such review filed with the Board by any interested person, after consideration of the petition by the Board; or

"(C) on the filing of a written complaint by the Special Counsel requesting such review.

"(2) In reviewing any provision of any rule or regulation pursuant to this subsection, the Board shall declare such provision—

"(A) invalid on its face, if the Board determines that such provision would, if implemented by any agency, on its face, require any employee to violate section 2302(b); or

"(B) invalidly implemented by any agency, if the Board determines that such provision, as it has been implemented by the agency through any personnel action taken by the agency or through any policy adopted by the agency in conformity with such provision, has required any employee to violate section 2302(b).

"(3) The Director of the Office of Personnel Management, and the head of any agency implementing any provision of any rule or regulation under review pursuant to this subsection, shall have the right to participate in such review.

"(4) The Board shall require any agency—

"(A) to cease compliance with any provisions of any rule or regulation which the Board declares under this subsection to be invalid on its face; and

"(B) to correct any invalid implementation by the agency of any provision of any rule or regulation which the Board declares under this subsection to have been invalidly implemented by the agency.

"(g) The Board may delegate the performance of any of its administrative functions under this title to any employee of the Board.

"(h) The Board shall have the authority to prescribe such regulations as may be necessary for the performance of its functions. The Board shall not issue advisory opinions. All regulations of the Board shall be published in the Federal Register.

"(i) Except as provided in section 518 of title 28, United States Code, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the Board may appear for the Board, and represent the Board, in any civil action brought in connection with any function carried out by the Board pursuant to this title or as otherwise authorized by law.

"(j) The Chairman of the Board may appoint such personnel as may be necessary to perform the functions of the Board. Any appointment made under this subsection shall comply with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).

"(k) The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall, as revised, be included as a separate item in the budget required to be transmitted to the Congress under section 1105 of title 31.

"(l) The Board shall submit to the President, and, at the same time, to each House of the Congress, any legislative recommendations of the Board relating to any of its functions under this title.

"(m) Whenever it considers alternative places for conducting a hearing or other proceeding brought by or on behalf of an employee, former employee, or applicant for employment, the Board shall, to the extent practicable, select the place closest to the location of the position held, formerly held, or sought by the individual involved, unless the total administrative costs to the Government in conducting such proceeding would be lesser elsewhere.

"§ 1205. Transmittal of information to Congress

"Notwithstanding any other provision of law or any rule, regulation, or policy directive, any member of the Board, or any employee of the Board designated by the Board, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Board, without review, clearance, or approval by any other administrative authority.

"§ 1206. Annual report

"The Board shall submit an annual report to the President and the Congress on its activities, which shall include a description of significant actions taken by the Board to carry out its functions under this title. The report shall also review the significant actions of the Office of Personnel Management, including an analysis of whether the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices.

"SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

"§ 1211. Establishment

"(a) There is established the Office of Special Counsel, which shall be headed by the Special Counsel. The Office shall have an official seal which shall be judicially noticed. The Office shall have its principal office in the District of Columbia and shall have field offices in other appropriate locations.

"(b) The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The Special Counsel shall be an attorney who, by demonstrated ability, background, training, or experience, is especially qualified to carry out the functions of the position. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of the Special Counsel's predecessor serves for the remainder of the term. The Special Counsel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office. The Special Counsel may not hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President.

"§ 1212. Powers and functions of the Office of Special Counsel

"(a) The Office of Special Counsel shall—

"(1) in accordance with section 1214(a) and other applicable provisions of this subchapter, protect employees, former employees, and applicants for employment from prohibited personnel practices;

"(2) receive and investigate allegations of prohibited personnel practices, and, where appropriate—

"(A) bring petitions for stays, and petitions for corrective action, under section 1214; and

"(B) file a complaint or make recommendations for disciplinary action under section 1215;

"(3) receive, review, and, where appropriate, forward to the Attorney General or an agency head under section 1213, disclosures of violations of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

"(4) review rules and regulations issued by the Director of the Office of Personnel Management in carrying out functions under section 1103 and, where the Special Counsel finds that any such rule or regulation would, on its face or as implemented, require the commission of a prohibited personnel practice, file a written complaint with the Board; and

"(5) investigate and, where appropriate, bring actions concerning allegations of violations of other laws within the jurisdiction

of the Office of Special Counsel (as referred to in section 1216).

"(b)(1) The Special Counsel and any employee of the Office of Special Counsel designated by the Special Counsel may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Special Counsel may—

"(A) issue subpoenas; and

"(B) order the taking of depositions and order responses to written interrogatories;

in the same manner as provided under section 1204.

"(3)(A) In the case of contumacy or failure to obey a subpoena issued under paragraph (2)(A), upon application by the Special Counsel, the United States district court for the district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(B) A subpoena under paragraph (2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in the manner referred to in subsection (d) of section 1204, and the United States District Court for the District of Columbia may, with respect to any such individual, compel compliance in accordance with such subsection.

"(4) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"(c) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Special Counsel may appear for the Office of Special Counsel, and represent the Office, in any civil action brought in connection with any function carried out by the Office pursuant to this title or as otherwise authorized by law.

"(d)(1) Except as provided in paragraph (2), the Special Counsel may as a matter of right intervene or otherwise participate in any proceeding before the Merit Systems Protection Board, except that the Special Counsel shall comply with the rules of the Board.

"(2)(A) The Special Counsel may not intervene in an action brought by an individual under section 1221, or in an appeal brought by an individual under section 7701, without the consent of such individual, except as provided in subparagraph (B).

"(B) The Special Counsel may intervene as a matter of right in an action or appeal referred to in subparagraph (A) if—

"(i) the individual bringing such action or appeal has been charged with conduct constituting a prohibited personnel practice, and the Special Counsel has reasonable grounds to believe that the prohibited personnel practice has occurred, exists, or is to be taken; or

"(ii) the agency initiated the contested personnel action against the individual with the approval of the Special Counsel under section 1214(f).

"(3)(A) The Special Counsel may obtain judicial review of any final order or decision of the Merit Systems Protection Board in any proceeding in which the Special Counsel was a party (other than an order or decision in an action brought under section 1215, unless or to the extent that the order or decision involves conduct covered by section 2302(b)(8)).

"(B) A petition for review under this paragraph shall be filed with such court, and within such time, as provided for under section 7703(b).

"(e)(1) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.

"(2) Any appointment made under this subsection shall be made in accordance with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).

"(f) The Special Counsel may prescribe such regulations as may be necessary to perform the functions of the Special Counsel. Such regulations shall be published in the Federal Register.

"(g) The Special Counsel may not issue any advisory opinion concerning any law(rule(or regulation (other than an advisory opinion concerning chapter 15 or subchapter III of chapter 73).

"(h)(1) The Special Counsel may not respond to any inquiry or provide information concerning any person making an allegation under section 1214(a), except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.

"(2) Notwithstanding the exception under paragraph (1), the Special Counsel may not respond to any inquiry concerning a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a person described in paragraph (1)—

"(A) unless the consent of the individual as to whom the information pertains is obtained in advance; or

"(B) except upon request of an agency which requires such information in order to make a determination concerning an individual's having access to information the unauthorized disclosure of which could be expected to cause exceptionally grave damage to the national security.

"§ 1213. Provisions relating to disclosures of violations of law, gross mismanagement, and certain other matters

"(a) This section applies with respect to—

"(1) any disclosure of information by an employee, former employee, or applicant for employment which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; and

"(2) any disclosure by an employee, former employee, or applicant for employment to the Special Counsel or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

"(b) Whenever the Special Counsel receives information of a type described in subsection (a) of this section, the Special Counsel shall review such information and, within 15 days after receiving the information, determine whether there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety.

"(c)(1) Subject to paragraph (2), if the Special Counsel makes a positive determination under subsection (b) of this section, the Special Counsel shall promptly transmit the information with respect to which the determination was made to the appropriate agency head and require that the agency head—

"(A) conduct an investigation with respect to the information and any related matters transmitted by the Special Counsel to the agency head; and

"(B) submit a written report setting forth the findings of the agency head within 60 days after the date on which the information is transmitted to the agency head or within any longer period of time agreed to in writing by the Special Counsel.

"(2) The Special Counsel may require an agency head to conduct an investigation and submit a written report under paragraph (1) only if the information was transmitted to the Special Counsel by—

"(A) an employee, former employee, or applicant for employment in the agency which the information concerns; or

"(B) an employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

"(d) Any report required under subsection (c) shall be reviewed and signed by the head of the agency and shall include—

"(1) a summary of the information with respect to which the investigation was initiated;

"(2) a description of the conduct of the investigation;

"(3) a summary of any evidence obtained from the investigation;

"(4) a listing of any violation or apparent violation of any law, rule, or regulation; and

"(5) a description of any action taken or planned as a result of the investigation, such as—

"(A) changes in agency rules, regulations, or practices;

"(B) the restoration of any aggrieved employee;

"(C) disciplinary action against any employee; and

"(D) referral to the Attorney General of any evidence of a criminal violation.

"(e)(1) Any such report shall be submitted to the Special Counsel, and the Special Counsel shall transmit a copy to the complainant, except as provided under subsection (f) of this section. The complainant may submit comments to the Special Counsel on the agency report within 15 days of having received a copy of the report.

"(2) Upon receipt of any report of the head of an agency required under subsection (c) of this section, the Special Counsel shall review the report and determine whether—

"(A) the findings of the head of the agency appear reasonable; and

"(B) the report of the agency under subsection (c)(1) of this section contains the in-

formation required under subsection (d) of this section.

"(3) The Special Counsel shall transmit any agency report received pursuant to subsection (c) of this section, any comments provided by the complainant pursuant to subsection (e)(1), and any appropriate comments or recommendations by the Special Counsel to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General.

"(4) Whenever the Special Counsel does not receive the report of the agency within the time prescribed in subsection (c)(2) of this section, the Special Counsel shall transmit a copy of the information which was transmitted to the agency head to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General together with a statement noting the failure of the head of the agency to file the required report.

"(f) In any case in which evidence of a criminal violation obtained by an agency in an investigation under subsection (c) of this section is referred to the Attorney General—

"(1) the report shall not be transmitted to the complainant; and

"(2) the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

"(g)(1) If the Special Counsel receives information of a type described in subsection (a) from an individual other than an individual described in subparagraph (A) or (B) of subsection (c)(2), the Special Counsel may transmit the information to the head of the agency which the information concerns. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action shall be completed. The Special Counsel shall inform the individual of the report of the agency head. If the Special Counsel does not transmit the information to the head of the agency, the Special Counsel shall return any documents and other matter provided by the individual who made the disclosure.

"(2) If the Special Counsel receives information of a type described in subsection (a) from an individual described in subparagraph (A) or (B) of subsection (c)(2), but does not make a positive determination under subsection (b), the Special Counsel may transmit the information to the head of the agency which the information concerns, except that the information may not be transmitted to the head of the agency without the consent of the individual. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action will be completed. The Special Counsel shall inform the individual of the report of the agency head.

"(3) If the Special Counsel does not transmit the information to the head of the agency under paragraph (2), the Special Counsel shall—

"(A) return any documents and other matter provided by the individual who made the disclosure; and

"(B) inform the individual of—

"(i) the reasons why the disclosure may not be further acted on under this chapter; and

"(ii) other offices available for receiving disclosures, should the individual wish to pursue the matter further.

"(h) The identity of any individual who makes a disclosure described in subsection (a) may not be disclosed by the Special Counsel without such individual's consent unless the Special Counsel determines—

"(1) that the disclosure of the individual's identity is necessary in order to carry out the functions of the Special Counsel; or

"(2) that the disclosure of the individual's identity is necessary because of an imminent danger to public health or safety or imminent violation of any criminal law.

"(i) Except as specifically authorized under this section, the provisions of this section shall not be considered to authorize disclosure of any information by any agency or any person which is—

"(1) specifically prohibited from disclosure by any other provision of law; or

"(2) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(j) With respect to any disclosure of information described in subsection (a) which involves foreign intelligence or counterintelligence information, if the disclosure is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"§ 1214. Investigation of prohibited personnel practices; corrective action

"(a)(1)(A) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(B) Within 15 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall provide written notice to the person who made the allegation that—

"(i) the allegation has been received by the Special Counsel; and

"(ii) shall include the name of a person at the Office of Special Counsel who shall serve as a contact with the person making the allegation.

"(C) Unless an investigation is terminated under paragraph (2), the Special Counsel shall—

"(i) within 90 days after notice is provided under subparagraph (B), notify the person who made the allegation of the status of the investigation and any action taken by the Office of the Special Counsel since the filing of the allegation;

"(ii) notify such person of the status of the investigation and any action taken by the Office of the Special Counsel since the last notice, at least every 60 days after notice is given under clause (i); and

"(iii) notify such person of the status of the investigation and any action taken by the Special Counsel at such time as determined appropriate by the Special Counsel.

"(2)(A) If the Special Counsel terminates any investigation under paragraph (1), the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of—

"(i) the termination of the investigation;

"(ii) a summary of relevant facts ascertained by the Special Counsel, including the facts that support, and the facts that do not support, the allegations of such person; and

"(iii) the reasons for terminating the investigation.

"(B) A written statement under subparagraph (A) may not be admissible as evidence in any judicial or administrative proceeding, without the consent of the person who received such statement under subparagraph (A).

"(3) Except in a case in which an employee, former employee, or applicant for employment has the right to appeal directly to the Merit Systems Protection Board under any law, rule, or regulation, any such employee, former employee, or applicant shall seek corrective action from the Special Counsel before seeking corrective action from the Board. An employee, former employee, or applicant for employment may seek corrective action from the Board under section 1221, if such employee, former employee, or applicant seeks corrective action for a prohibited personnel practice described in section 2302(b)(8) from the Special Counsel and—

"(A)(i) the Special Counsel notifies such employee, former employee, or applicant that an investigation concerning such employee, former employee, or applicant has been terminated; and

"(ii) no more than 60 days have elapsed since notification was provided to such employee, former employee, or applicant for employment that such investigation was terminated; or

"(B) 120 days after seeking corrective action from the Special Counsel, such employee, former employee, or applicant has not been notified by the Special Counsel that the Special Counsel shall seek corrective action on behalf of such employee, former employee, or applicant.

"(4) If an employee, former employee, or applicant seeks a corrective action from the Board under section 1221, pursuant to the provisions of paragraph (3)(B), the Special Counsel may continue to seek corrective action personal to such employee, former employee, or applicant only with the consent of such employee, former employee, or applicant.

"(5) In addition to any authority granted under paragraph (1), the Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice (or a pattern of prohibited personnel practices) has occurred, exists, or is to be taken.

"(b)(1)(A)(i) The Special Counsel may request any member of the Merit Systems Protection Board to order a stay of any personnel action for 45 days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice.

"(ii) Any member of the Board requested by the Special Counsel to order a stay under clause (i) shall order such stay unless the member determines that, under the facts and circumstances involved, such a stay would not be appropriate.

"(iii) Unless denied under clause (ii), any stay under this subparagraph shall be granted within 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of the request for the stay by the Special Counsel.

"(B) The Board may extend the period of any stay granted under subparagraph (A) for any period which the Board considers appropriate.

"(C) The Board shall allow any agency which is the subject of a stay to comment to

the Board on any extension of stay proposed under subparagraph (B).

"(D) A stay may be terminated by the Board at any time, except that a stay may not be terminated by the Board—

"(i) on its own motion or on the motion of an agency, unless notice and opportunity for oral or written comments are first provided to the Special Counsel and the individual on whose behalf the stay was ordered; or

"(ii) on motion of the Special Counsel, unless notice and opportunity for oral or written comments are first provided to the individual on whose behalf the stay was ordered.

"(2)(A) If, in connection with any investigation, the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken which requires corrective action, the Special Counsel shall report the determination together with any findings or recommendations to the Board, the agency involved and to the Office of Personnel Management, and may report such determination, findings and recommendations to the President. The Special Counsel may include in the report recommendations for corrective action to be taken.

"(B) If, after a reasonable period of time, the agency does not act to correct the prohibited personnel practice, the Special Counsel may petition the Board for corrective action.

"(C) If the Special Counsel finds, in consultation with the individual subject to the prohibited personnel practice, that the agency has acted to correct the prohibited personnel practice, the Special Counsel shall file such finding with the Board, together with any written comments which the individual may provide.

"(3) Whenever the Special Counsel petitions the Board for corrective action, the Board shall provide an opportunity for—

"(A) oral or written comments by the Special Counsel, the agency involved, and the Office of Personnel Management; and

"(B) written comments by any individual who alleges to be the subject of the prohibited personnel practice.

"(4)(A) The Board shall order such corrective action as the Board considers appropriate, if the Board determines that the Special Counseh has demonstrated that a prohibited personnel practice, other than one described in section 2302(b)(8), has occurred, exists, or is to be taken.

"(B)(i) Subject to the provisions of clause (ii), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board cojsiders appropriate if the Special Counseh has deionstrated that a disclosure described under section 2302(b)(8) was a factor in the personnel action which was taken or is to be taken against the individual.

"(ii) Corrective action under clause (i) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

"(c)(1) Judicial review of any final order or decision of the Board under this section may be obtained—

"(A) by any employee, former employee, or applicant for employment adversely affected by such order or decision; or

"(B) by the Special Counsel.

"(2) A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703(b).

"(d)(1) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that a criminal violation has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(2) In any case in which the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken, the Special Counsel shall proceed with any investigation or proceeding unless—

"(A) the alleged violation has been reported to the Attorney General; and

"(B) the Attorney General is pursuing an investigation, in which case the Special Counsel has discretion as to whether to proceed.

"(e) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred other than one referred to in subsection (b) or (d), the Special Counsel shall report such violation to the head of the agency involved. The Special Counsel shall require, within 30 days after the receipt of the report by the agency, a certification by the head of the agency which states—

"(1) that the head of the agency has personally reviewed the report; and

"(2) what action has been or is to be taken, and when the action will be completed.

"(f) During any investigation initiated under this subchapter, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

"§ 1215. Disciplinary action

"(a)(1) Except as provided in subsection (b), if the Special Counsel determines that disciplinary action should be taken against any employee for having—

"(A) committed a prohibited personnel practice,

"(B) violated the provisions of any law, rule, or regulation, or engaged in any other conduct within the jurisdiction of the Special Counsel as described in section 1216, or

"(C) knowingly and willfully refused or failed to comply with an order of the Merit Systems Protection Board,

the Special Counsel shall prepare a written complaint against the employee containing the Special Counsel's determination, together with a statement of supporting facts, and present the complaint and statement to the employee and the Board, in accordance with this subsection.

"(2) Any employee against whom a complaint has been presented to the Merit Systems Protection Board under paragraph (1) is entitled to—

"(A) a reasonable time to answer orally and in writing, and to furnish affidavits and other documentary evidence in support of the answer;

"(B) be represented by an attorney or other representative;

"(C) a hearing before the Board or an administrative law judge appointed under section 3105 and designated by the Board;

"(D) have a transcript kept of any hearing under subparagraph (C); and

"(E) a written decision and reasons therefor at the earliest practicable date, including a copy of any final order imposing disciplinary action.

"(3) A final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.

"(4) There may be no administrative appeal from an order of the Board. An employee subject to a final order imposing disciplinary action under this subsection may obtain judicial review of the order by filing a petition therefor with such court, and within such time, as provided for under section 7703(b).

"(5) In the case of any State or local officer or employee under chapter 15, the Board shall consider the case in accordance with the provisions of such chapter.

"(b) In the case of an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the complaint and statement referred to in subsection (a)(1), together with any response of the employee, shall be presented to the President for appropriate action in lieu of being presented under subsection (a).

"(c)(1) In the case of members of the uniformed services and individuals employed by any person under contract with an agency to provide goods or services, the Special Counsel may transmit recommendations for disciplinary or other appropriate action (including the evidence on which such recommendations are based) to the head of the agency concerned.

"(2) In any case in which the Special Counsel transmits recommendations to an agency head under paragraph (1), the agency head shall, within 60 days after receiving such recommendations, transmit a report to the Special Counsel on each recommendation and the action taken, or proposed to be taken, with respect to each such recommendation.

"§ 1216. Other matters within the jurisdiction of the Office of Special Counsel

"(a) In addition to the authority otherwise provided in this chapter, the Special Counsel shall, except as provided in subsection (b), conduct an investigation of any allegation concerning—

"(1) political activity prohibited under subchapter III of chapter 73, relating to political activities by Federal employees;

"(2) political activity prohibited under chapter 15, relating to political activities by certain State and local officers and employees;

"(3) arbitrary or capricious withholding of information prohibited under section 552, except that the Special Counsel shall make no investigation of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order;

"(4) activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking; and

"(5) involvement by any employee in any prohibited discrimination found by any

court or appropriate administrative authority to have occurred in the course of any personnel action.

"(b) The Special Counsel shall make no investigation of any allegation of any prohibited activity referred to in subsection (a)(5), if the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure.

"(c)(1) If an investigation by the Special Counsel under subsection (a)(1) substantiates an allegation relating to any activity prohibited under section 7324, the Special Counsel may petition the Merit Systems Protection Board for any penalties provided for under section 7325.

"(2) If the Special Counsel receives an allegation concerning any matter under paragraph (3), (4), or (5) of subsection (a), the Special Counsel may investigate and seek corrective action under section 1214 in the same way as if a prohibited personnel practice were involved.

"§ 1217. Transmittal of information to Congress

"Notwithstanding any other provision of law or any rule, regulation, or policy directive, the Special Counsel or any employee of the Special Counsel designated by the Special Counsel, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Office, without review, clearance, or approval by any other administrative authority.

"§ 1218. Annual report

"The Special Counsel shall submit an annual report to the Congress on the activities of the Special Counsel, including the number, types, and disposition of allegations of prohibited personnel practices filed with it, investigations conducted by it, and actions initiated by it before the Merit Systems Protection Board, as well as a description of the recommendations and reports made by it to other agencies pursuant to this subchapter, and the actions taken by the agencies as a result of the reports or recommendations. The report required by this section shall include whatever recommendations for legislation or other action by Congress the Special Counsel may consider appropriate.

"§ 1219. Public information

"(a) The Special Counsel shall maintain and make available to the public—

"(1) a list of noncriminal matters referred to heads of agencies under subsection (c) of section 1213, together with reports from heads of agencies under subsection (c)(1)(B) of such section relating to such matters;

"(2) a list of matters referred to heads of agencies under section 1215(c)(2);

"(3) a list of matters referred to heads of agencies under subsection (f) of section 1214, together with certifications from heads of agencies under such subsection; and

"(4) reports from heads of agencies under section 1213(g)(1).

"(b) The Special Counsel shall take steps to ensure that any list or report made available to the public under this section does not contain any information the disclosure of which is prohibited by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs.

"SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CERTAIN REPRISAL CASES

"§ 1221. Individual right of action in certain reprisal cases

"(a) Subject to the provisions of subsection (b) of this section and subsection 1214(a)(3), an employee, former employee, or applicant for employment may, with respect to any personnel action taken, or proposed to be taken, against such employee, former employee, or applicant for employment, as a result of a prohibited personnel practice described in section 2302(b)(8), seek corrective action from the Merit Systems Protection Board.

"(b) This section may not be construed to prohibit any employee, former employee, or applicant for employment from seeking corrective action from the Merit Systems Protection Board before seeking corrective action from the Special Counsel, if such employee, former employee, or applicant for employment has the right to appeal directly to the Board under any law, rule, or regulation.

"(c)(1) Any employee, former employee, or applicant for employment seeking corrective action under subsection (a) may request that the Board order a stay of the personnel action involved.

"(2) Any stay requested under paragraph (1) shall be granted within 10 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date the request is made, if the Board determines that such a stay would be appropriate.

"(3)(A) The Board shall allow any agency which would be subject to a stay under this subsection to comment to the Board on such stay request.

"(B) Except as provided in subparagraph (C), a stay granted under this subsection shall remain in effect for such period as the Board determines to be appropriate.

"(C) The Board may modify or dissolve a stay under this subsection at any time, if the Board determines that such a modification or dissolution is appropriate.

"(d)(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board may issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that such subpoena is necessary for the development of relevant evidence.

"(2) A subpoena under this subsection may be issued, and shall be enforced, in the same manner as applies in the case of subpoenas under section 1204.

"(e)(1) Subject to the provisions of paragraph (2), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board considers appropriate if the employee, former employee, or applicant for employment has demonstrated that a disclosure described under section 2302(b)(8) was a factor in the personnel action which was taken or is to be taken against such employee, former employee, or applicant.

"(2) Corrective action under paragraph (1) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

"(f)(1) A final order or decision shall be rendered by the Board as soon as practicable after the commencement of any proceeding under this section.

"(2) A decision to terminate an investigation under subchapter II may not be considered in any action or other proceeding under this section.

"(g) If an employee, former employee, or applicant for employment is the prevailing party, and the decision is based on a finding of a prohibited personnel practice, the agency involved shall be liable to the employee, former employee, or applicant for reasonable attorney's fees and any other reasonable costs incurred.

"(h)(1) An employee, former employee, or applicant for employment adversely affected or aggrieved by a final order or decision of the Board under this section may obtain judicial review of the order or decision.

"(2) A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703(b).

"(i) Subsections (a) through (h) shall apply in any proceeding brought under section 7513(d) if, or to the extent that, a prohibited personnel practice as defined in section 2302(b)(8) is alleged.

"(j) In determining the appealability of any case involving an allegation made by an individual under the provisions of this chapter, neither the status of an individual under any retirement system established under a Federal statute nor any election made by such individual under any such system may be taken into account.

"§ 1222. Availability of other remedies

"Except as provided in section 1221(i), nothing in this chapter or chapter 23 shall be construed to limit any right or remedy available under a provision of statute which is outside of both this chapter and chapter 23.".

(b) CONFORMING AMENDMENT.—The analysis for part II of title 5 of the United States Code is amended by striking the item relating to chapter 12 and inserting the following:

"12. Merit Systems Protection Board, Office of Special Counsel, and Individual Right of Action 1201".

SEC. 4. REPRISALS.

(a) AMENDMENTS TO SECTION 2302(b)(8).—Section 2302 (b)(8) of title 5, United States Code, is amended—

(1) by inserting ", or threaten to take or fail to take," after "take or fail to take";

(2) by striking out "as a reprisal for" and inserting in lieu thereof "because of";

(3) in subparagraph (A) by striking out "a disclosure" and inserting in lieu thereof "any disclosure";

(4) in subparagraph (A)(ii) by inserting "gross" before "mismanagement";

(5) in subparagraph (B) by striking out "a disclosure" and inserting in lieu thereof "any disclosure"; and

(6) in subparagraph (B)(ii) by inserting "gross" before "mismanagement".

(b) AMENDMENT TO SECTION 2302(b)(9).—Section 2302(b)(9) of title 5, United States Code, is amended to read as follows:

"(9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—

"(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

"(B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A);

"(C) cooperating with or disclosing information to the Inspector General of an

agency, or the Special Counsel, in accordance with applicable provisions of law; or

"(D) for refusing to obey an order that would require the individual to violate a law;".

SEC. 5. PREFERENCE IN TRANSFERS FOR WHISTLEBLOWERS.

(a) IN GENERAL.—Subchapter IV of chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3352. Preference in transfers for employees making certain disclosures

"(a) Subject to the provisions of subsections (d) and (e), in filling a position within any Executive agency, the head of such agency may give preference to any employee of such agency, or any other Executive agency, to transfer to a position of the same status and tenure as the position of such employee on the date of applying for a transfer under subsection (b) if—

"(1) such employee is otherwise qualified for such position;

"(2) such employee is eligible for appointment to such position; and

"(3) the Merit Systems Protection Board makes a determination under the provisions of chapter 12 that a prohibited personnel action described under section 2302(b)(8) was taken against such employee.

"(b) An employee who meets the conditions described under subsection (a)(1), (2), and (3) may voluntarily apply for a transfer to a position, as described in subsection (a), within the Executive agency employing such employee or any other Executive agency.

"(c) If an employee applies for a transfer under the provisions of subsection (b) and the selecting official rejects such application, the selecting official shall provide the employee with a written notification of the reasons for the rejection within 30 days after receiving such application.

"(d) An employee whose application for transfer is rejected under the provisions of subsection (c) may request the head of such agency to review the rejection. Such request for review shall be submitted to the head of the agency within 30 days after the employee receives notification under subsection (c). Within 30 days after receiving a request for review, the head of the agency shall complete the review and provide a written statement of findings to the employee and the Merit Systems Protection Board.

"(e) The provisions of subsection (a) shall apply with regard to any employee—

"(1) for no more than 1 transfer;

"(2) for a transfer from or within the agency such employee is employed at the time of a determination by the Merit Systems Protection Board that a prohibited personnel action as described under section 2302(b)(8) was taken against such employee; and

"(3) no later than 18 months after such a determination is made by the Merit Systems Protection Board.

"(f) Notwithstanding the provisions of subsection (a), no preference may be given to any employee applying for a transfer under subsection (b), with respect to a preference eligible (as defined under section 2108(3)) applying for the same position.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3351 the following:

"3352. Preference in transfers for employees making certain disclosures.".

SEC. 6. INTERIM RELIEF.

Section 7701 of title 5, United States Code, is amended—

(1) by redesignating subsection (b) as paragraph (1) of subsection (b); and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) If an employee or applicant for employment is the prevailing party in an appeal under this subsection, the employee or applicant shall be granted the relief provided in the decision effective upon the making of the decision, and remaining in effect pending the outcome of any petition for review under subsection (e), unless—

"(i) the deciding official determines that the granting of such relief is not appropriate; or

"(ii)(I) the relief granted in the decision provides that such employee or applicant shall return or be present at the place of employment during the period pending the outcome of any petition for review under subsection (e); and

"(II) the employing agency, subject to the provisions of subparagraph (B), determines that the return or presence of such employee or applicant is unduly disruptive to the work environment.

"(B) If an agency makes a determination under subparagraph (A)(ii)(II) that prevents the return or presence of an employee at the place of employment, such employee shall receive pay, compensation, and all other benefits as terms and conditions of employment during the period pending the outcome of any petition for review under subsection (e).

"(C) Nothing in the provisions of this paragraph may be construed to require any award of back pay or attorney fees be paid before the decision is final.".

SEC. 7. SAVINGS PROVISIONS.

(a) ORDERS, RULES, AND REGULATIONS.—All orders, rules, and regulations issued by the Merit Systems Protection Board or the Special Counsel before the effective date of this Act shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed.

(b) ADMINISTRATIVE PROCEEDINGS.—No provision of this Act shall affect any administrative proceeding pending at the time such provisions take effect. Orders shall be issued in such proceedings, and appeals shall be taken therefrom, as if this Act had not been enacted.

(c) SUITS AND OTHER PROCEEDINGS.—No suit, action, or other proceeding lawfully commenced by or against the members of the Merit Systems Protection Board, the Special Counsel, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act, shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS; RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978; TRANSFER OF FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated—

(1) for each of fiscal years 1989, 1990, 1991, 1992, and 1993, $20,000,000 to carry out subchapter I of chapter 12 of title 5, United States Code (as amended by this Act); and

(2) for each of fiscal years 1989, 1990, and 1991, $5,000,000 to carry out subchapter II of chapter 12 of title 5, United States Code (as amended by this Act).

(b) RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978.—No funds may be appropriated to the Merit Systems Protection Board or the Office of Special Counsel pursuant to section 903 of the Civil Service Reform Act of 1978 (5 U.S.C. 5509 note).

(c) TRANSFER OF FUNDS.—The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available to the Special Counsel of the Merit Systems Protection Board are, subject to section 1531 of title 31, United States Code, transferred to the Special Counsel referred to in section 1211 of title 5, United States Code (as added by section 3(a) of this Act), for appropriate allocation.

SEC. 9. TECHNICAL AND CONFORMING AMENDMENTS.

(a)(1) Section 2303(c) of title 5, United States Code, is amended by striking "the provisions of section 1206" and inserting "applicable provisions of sections 1214 and 1221".

(2) Sections 7502, 7512(E), 7521(b)(C), and 7542 of title 5, United States Code, are amended by striking "1206" and inserting "1215".

(3) Section 1109(a) of the Foreign Service Act of 1980 (22 U.S.C. 4139(a)) is amended by striking "1206" and inserting "1214 or 1221".

(b) Section 3393(g) of title 5, United States Code, is amended by striking "1207" and inserting "1215".

SEC. 10. BOARD RESPONDENT.

Section 7703(a)(2) of title 5, United States Code, is amended to read as follows:

"(2) The Board shall be named respondent in any proceeding brought pursuant to this subsection, unless the employee or applicant for employment seeks review of a final order or decision on the merits on the underlying personnel action or on a request for attorney fees, in which case the agency responsible for taking the personnel action shall be the respondent.".

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days following the date of enactment of this Act.

The SPEAKER pro tempore. Is a second damanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, If there were an Olympic event in legislative compromise—a sport in which perserverance, intelligence, charm, and steadfastness played pivotal

roles—the Gold Medalist would be FRANK HORTON. Because of FRANK HORTON'S efforts, we are able to present to the House a whistleblower protection bill supported by both the Reagan administration and the ACLU; a bill endorse by Federal unions and managers.

The Committee on Post Office and Civil Service reported H.R. 25, strong whistleblower legislation, 14 months ago. The administration opposed that bill. Representative HORTON told them that was not good enough. He convinced OMB Deputy Director Joe Wright that good whistleblower protection legislation which the administration could support could be developed. Frankly, I was a doubter: I was not sure a good compromise could be reached. Well, FRANK HORTON forced us to negotiate. It was long, it was not pleasant; but, it resulted in a good bill which everyone can support.

Congress in 1978 created statutory whistleblower protection for Federal employees in the Civil Service Reform Act. That scheme has failed for two basic reasons: first, the Merit Systems Protection Board and the courts have construed the law very narrowly, virtually wiping out recourse for whistleblowers. Second, the Special Counsel—the official established to protect employees—misunderstood its job. The Special Counsel said it was trying to protect the merit system. But, instead of trying to protect victims of prohibited personnel practices, the Special Counsel started attacking the very people who came to the office for help.

In this bill, we deal with both problems. We specifically reverse or modify a number of MSPB and judicial decisions. Most importantly, the Board created an affirmative defense for agencies which provided that if an agency could show that there were other grounds to take a personnel action, the action would stand even if the action was taken largely for improper, retaliatory motives. We rewrite the test to make it quite easy for a whistleblower to prove a prima facie case of retaliation and to force the agency to prove, by clear and convincing evidence, that the action would have been taken in the absence of the protected disclosure.

Courts held that, where an employee went to the Special Counsel and the Special Counsel decided not to help, the employee was out of luck. We eliminate that problem by giving employees an individual right of action to take their cases to the Board. MSPB decided it had no power to issue orders to protect witnesses during Special Counsel investigations, that it had no power to order interim relief for employees winning at the administrative judge level, and that an employee who decided to take his or her retirement when faced with an adverse action, could not then appeal the adverse action, All these decisions were bad and we reverse them in this bill. The courts said that MSPB could not defend its own jurisdiction or procedures in court on appeal. That decision was silly, so we reverse that decision as well.

As for the conduct of the Office of Special Counsel, correction required precise provisions limiting the authority of the Special Counsel. We made the office an independent agency to avoid any possibility of undue influence. We limited the Special Counsel's ability to intervene in cases, and release information, and we stripped away the office's power to block employees' access to the MSPB. And, we wrote in a purposes section to clearly communicate that the job of the Special Counsel is to represent and protect employees and never act to their detriment. To hold the Special Counsel accountable to do the job right, we wrote a 3-year sunset into the bill. If Special Counsel returns to the sort of antiemployee conduct it has so frequently exhibited in the past, the office will be terminated on September 30, 1991.

Because of the imminent end of the session, we skipped conference and worked out an agreed version with the Senate, which is the bill we are presenting today. To explain the compromises contained in this version, we developed a joint explanatory statement which follows:

JOINT EXPLANATORY STATEMENT

INTRODUCTION

The Senate, on August 8, 1988, passed S. 508, the Whistleblower Protection Act (See S. Rpt. 100-413). One year earlier, on August 5, 1987, the House Committee on Post Office and Civil Service favorably reported H.R. 25 (See H. Rpt. 100-274).

From the time that the House Committee reported the legislation in August 1987 to the present, there have been extensive negotiations to develop a version of H.R. 25 which would be acceptable to the Administration and address the serious problems with the current federal employee whistleblower protection scheme. The negotiations culminated in a draft dated September 22, 1988. Due to the imminent end of the 100th Congress, Rep. Pat Schroeder and Rep. Frank Horton, the House sponsors of the legislation, decided that it would expedite consideration if differences between S. 508, as passed, and the September 22 draft of H.R. 25 could be resolved prior to House consideration.

The amendment brought to the House today, October 3, is the result of those negotiations with the Senate. If the House passes the Senate bill with the amendment, the same language will be presented to the Senate. Senate passage will clear the legislation for the President.

This joint explanatory statement explains new provisions of the version being considered. Some provisions in the amendment were contained in both H.R. 25, as reported, and S. 508, as passed. Those provisions are not discussed in this document but are fully discussed in the Senate report, the House report, or both.

Code sections cited are in title 5, United States Code, as amended by the House amendment.

1. Purpose

Section 2(b) of the bill lays out the purpose of the bill. Simply stated, the bill seeks to eliminate two types of impediments which have made it unduly difficult for whistleblowers and other victims of prohibited personnel practices to win redress. One category of impediments is a string of restrictive Merit Systems Protection Board and federal court decisions. Specific provisions of the bill modify or overturn inappropriate administrative or judicial determinations and make it more likely that whistleblowers and other victims of prohibited personnel practices will win their cases.

The second category of impediments are due to the policies of the Office of Special Counsel and stem from the Special Counsel's view of its role. The clear intent of the Civil Service Reform Act of 1978 (P.L. 94-454) was that the Special Counsel should protect and defend the rights of employees who were the victims of prohibited personnel practices. Nevertheless, the Office of Special Counsel determined that its role was to protect the merit system. And, as the General Accounting Office pointed out in its 1985 report on the operations of the Office of Special Counsel (GAO/GGD-85-53), the law could be read to support the Special Counsel's view.

The two divergent views of the role of the Office of Special Counsel—protection of the victims of prohibited personnel practices and protection of the merit system—do not conflict in most cases. However, the Special Counsel's view of the role of the Office—protecting the merit system—can and has led to instances in which the Special Counsel has acted to the actual detriment of employees seeking help from that Office. Such instances are at odds with our view of the very purpose of this Office. The purpose set out in section 2, as well as a number of operative provisions contained in the bill, is intended to foreclose the possibility that the Special Counsel will act to the detriment of an employee who comes to the Special Counsel for help.

There should be no doubt about legislative intent in passing this bill. Individuals should be able to go to the Special Counsel to make a disclosure under section 1213 of title 5, United States Code, to complain about a prohibited personnel practice under section 1214, or to allege a violation of another law within the jurisdiction of the Special Counsel under section 1216, without any fear that the information they provide or the investigation their disclosure triggers is used against them. Simply put, the Special Counsel must never act to the detriment of employees who legitimately seek the help of the Special Counsel. Unless employees have confidence that they will not be hurt by going to the Special Counsel—that the Special Counsel is a safe haven—the Office can never be as effective as Congress intends in protecting victims of prohibited personnel practices.

Language in the Senate-passed bill saying that the Special Counsel may not act contrary to the interests of employees was deleted as unnecessary.

2. Antiharassment authority of Board

Section 1204(e)(1)(B) authorizes the Merit Systems Protection Board to grant protective orders to protect a witness or other individual from harassment either during a proceeding before the Board or during a

Special Counsel investigation. Such an order may be granted upon a request from the Special Counsel or any other person, whether or not a party to the case, or on the Board's own motion except that an agency may not request a protective order concerning an investigation by the Office of Special Counsel during the course of such investigation.

This provision is intended to protect witnesses in order to aid the fact-finding process. Without the candid and honest testimony of those involved in the underlying relevant facts, unimpeded by threats or intimidation, prohibited personnel practice cases could easily be undermined by the defendent agency. The authority granted to the Board under this provision is intended to protect employees who are cooperating with such investigation from harassment by other employees.

3. Special Counsel intervention in adverse action and independent right of action cases

Section 1212(d) establishes the rules under which the Special Counsel may intervene in proceedings before the Merit Systems Protection Board. Where the proceeding is an appeal from an adverse action under section 7701 of title 5, United States Code, or an individual right of action, created by newly added section 1221 of title 5, United States Code, the general rule is that the Special Counsel may not intervene without the consent of the individual bringing the action.

Two exceptions are provided. One exception, contained in section 1212(d)(2)(B)(i) provides that the Special Counsel may intervene where the individual has been charged by the agency with conduct constituting a prohibited personnel practice and the Special Counsel has reasonable grounds to believe that such a prohibited personnel practice has occurred, exists, or is to be taken. The Special Counsel could only have such reasonable grounds where through its independent investigation, the Special Counsel has uncovered probative evidence concerning the employee's alleged prohibited personnel practice. Under no other circumstances is intervention, without the consent of the individual bringing the action, permitted.

It should be noted that the Special Counsel can intervene to argue that the conduct alleged by the agency constitutes a prohibited personnel practice other than the one alleged by the agency. It is not permissible, however, for the Special Counsel to intervene and assert a prohibited personnel practice based on different conduct from the conduct which serves as the basis of the agency's action.

The other exception, spelled out in section 1212(d)(2)(B)(ii) concerns cases in which the Special Counsel has granted a waiver to an agency to proceed with disciplinary action notwithstanding the pendency of a Special Counsel investigation.

In addition, this provision authorizes the Special Counsel to "otherwise participate" in proceedings before the Board. This language is intended to authorize the Special Counsel to file amicus briefs on points of law. It is not intended to permit the Special Counsel to examine witnesses, introduce evidence, or otherwise participate in the development of the facts of the case, without the consent of the individual bringing the action.

Under no circumstances may the Special Counsel engage in ex parte contacts with the agency or supply information to agency management which would serve as the basis for agency action against an employee. Once again, the Special Counsel should not act to the deteriment of employees who legitimately seek the Office's help.

4. Special Counsel release of information about investigations

Section 1212(h) governs the Special Counel's response to inquiries and provision of information concerning individuals who come to the Special Counsel for help. Again, the policy behind this provision is that employees should be able to go to the Special Counsel without fear of information being used against them. Section 1212(h)(1) provides that disclosures can only be made in accordance with the provisions of the Privacy Act. The language "as required by any other applicable Federal law" is intended to apply only in cases in which a statute specifically requires the Special Counsel to provide information otherwise protected by this section. It does not authorize the Special Counsel to disclose such information simply because the Special Counsel believes that such disclosure would facilitate the operation of another statute.

Section 1212(h)(2) states that, regardless of what the Privacy Act or some future enactment may provide, the Special Counsel can only release information concerning an employee's work performance, ability, aptitude, general qualifications, character, loyalty, or suitability under one of two circumstances. First, the information can be released with the advance written consent of the individual to whom the information pertains. Second, the information can be released to a federal agency when that agency is conducting a background check to clear an employee for access to Top Secret information, Sensitive Compartmented Information (SCI), or Q restricted data relating to atomic energy. The statutory language "information the unauthorized disclosure of which could be expected to cause exceptionally grave danger to the national security" comes directly from Executive Order No. 12356 and constitutes the definition of Top Secret information. The Special Counsel may not provide any information for a suitability check, a preemployment screening, whether by a private or governmental employer, or a background investigation for a clearance to Secret, Confidential or R restricted data.

It is assumed that agencies conducting security clearance background checks will not establish procedures under which the Special Counsel is queried for any and all information it possesses on any individual who is being investigated for a high level clearance. Rather, inquiries will only be made when the investigators are following a lead otherwise uncovered which takes them to the Office of Special Counsel.

The restrictions on the disclosure of information cover both the period during which the investigation is occurring and the period after the investigation is complete.

5. Protection of identity of individuals making whistleblowing disclosures to Special Counsel

Section 1213(h)(2) provides that the Special Counsel may disclose the identity of an individual who discloses information to the Special Counsel only (1) with the individual's consent; (2) where necessary to carry out the functions of the Special Counsel; and (3) where "necessary because of an imminent danger to public health or safety or imminent violation of any criminal law." Again, the overriding purpose of the bill is to protect individuals who seek the assistance of the Special Counsel; they should not be subject to harm because they sought help. These exceptions are to be defined narrowly.

The exception concerning the carrying out of the functions of the Special Counsel means that a specific statutory of the Special Counsel that a specific disclosure of the individual's name. For example, a decision by the Special Counsel to initiate an action before the MSPB may necessitate the disclosure of the identity of the individual on whose behalf the action is initiated. This provision is not intended to permit the Special Counsel to disclose an individual's identity, without that individual's consent, merely because such disclosure could be helpful in an investigation.

The imminent danger exception recognizes the countervailing public interest in protecting health and safety. The exception is quite narrow: it might be used, for example, where the Special Counsel learns that the individual making the disclosure plans to take violent action against a supervisor.

6. Exhaustion requirement prior to filing individual right of action

Section 1214(a)(3) provides that employees, former employees, and applicants for employment must first seek the assistance of the Office of Special Counsel before bringing an individual right of action under section 1221. If the Special Counsel notifies the individual that the investigation has been terminated, the individual has 60 days in which to file an independent right of action. If the individual receives no notice of termination of the investigation within 120 days of filing the complaint, he or she may file an individual right of action at any time after the 120 day period has elapsed.

7. Burden of proof

The bill makes it easier for an individual (or the Special Counsel on the individual's behalf) to prove that a whistleblower reprisal has taken place. To establish a prima facie case, an individual must prove that the whistleblowing was a factor in the personnel action. This supersedes the existing requirement that the whistleblowing was a substantial, motivating or predominant factor in the personnel action.

One of many possible ways to show that the whistleblowing was a factor in the personnel action is to show that the official taking the action knew (or had constructive knowledge) of the disclosure and acted within such a period of time that a reasonable person could conclude that the disclosure was a factor in the personnel action.

The bill establishes an affirmative defense for an agency. Once the prima facie case has been established, corrective action would not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of the disclosure. Clear and convincing evidence is a higher standard of proof than the preponderance of the evidence standard now used.

With respect to the agency's affirmative defense, it is our intention to codify the test set out by the Supreme Court in the case of *Mt. Healthy City School District* v. *Doyle*, 429 U.S. 274, 287 (1977). The only change made by this bill as to that defense is to increase the level of proof which an agency must offer from "preponderance of the evidence" to "clear and convincing evidence"

8. Other responsibilities of Special Counsel

Section 1216 clarifies the existing ancillary responsibilities of the Special Counsel. The authority of the Special Counsel to investigate allegations under section 1216(a)(4) is meant to cover major abuses of the civil service processes, such as political intrusion in personnel decisionmaking. The Special Counsel would be expected to investigate allegations of the type of wholesale politicization of civil service appointment procedures as occurred in the early 1970's under this authority. In such cases, the Special Counsel is authorized to seek corrective action, but not disciplinary action.

9. Special Counsel public information

The bill establishes a new section of law (section 1219 of title 5, United States Code) which sets out the requirements on the Office of Special Counsel to maintain and make available to the public certain information. The public files of the Special Counsel should include the comments of the individual who discloses the information under section 1213 which leads to the agency report unless the individual does not consent to the public availability of such comments.

10. Standards for stays in individual right of action cases

Section 1221(c) establishes the standards for stays and their dissolution in individual right of action cases. The bill provides that the Board shall determine whether the stay is appropriate, shall set the duration of the stay, as appropriate, and shall dissolve or modify the stay if appropriate. In making these determinations of appropriateness, the Board shall primarily consider whether there is a substantial likelihood that the individual will prevail on the merits and whether the stay would result in extreme hardship to the agency subject to the stay.

11. Time limit for MSPB decisions in individual right of action cases

Section 1221(f)(1) provides that the Board shall issue a decision on an individual right of action as soon as practicable after it is filed. While prompt decisions are strongly encouraged, and, it should be noted, the Board has done a commendable job in meeting time limits in adverse action cases, such prompt decisions should not come at the expense of full discovery. No litigant, whether in an individual right of action or in an appeal from an adverse action, should be deprived of the right to find the information needed to prove his or her case because to permit such discovery would result in the case not being decided within the regulatory time limits.

12. Attorneys fees

Section 1221(g) provides for the payment of reasonable attorneys fees in all types of proceedings before the MSPB or the courts where the employee, former employee, or applicant for employment prevails and the decison is based on the finding of a prohibited personnel practice. This provision is not limited to inadequate right of action cases.

MSPB and the courts have established substantial case law on what constitutes reasonable attorneys fees. The additional phrase "and any other reasonable costs incurred" is meant to include costs directly related to the litigation, such as photocopying, long distance telephone calls, and production of evidence, but is not meant to include other extraneous costs resulting from the prohibited personnel practice but not directly related to the litigation such as job counseling and retraining.

13. Election of remedies

The House version of the legislation contained a provision requiring an election of remedies between an appeal from an adverse action and an individual right of action. This provision was deleted because of concern that a jurisdictional loss in an adverse action appeal could bar an individual pursuing an individual right of action. Nevertheless, it is not intended that the MSPB hear the same case twice. If an individual has pursued the matter before MSPB on the merits under one right of action, the Board is expected to dismiss a case brought under another authority concerning the same matter under the doctrine of *stare decisis.*

14. Retirement does not cut off adverse action right

Section 1221(j) provides that the decision of an employee to retire when faced with a proposed adverse action does not cut off that employee's right to appeal to MSPB to challenge the adverse action. This section is not limited to individual right of action cases. If an individual who has retired or received a lump sum refund is subsequently reinstated pursuant to a MSPB or court decison with back pay, the Back Pay Act (5 U.S.C. 5596) provides that adjustments shall be made to provide that the individual is treated as if the unjustified personnel action had never occurred. Under this theory, the individual receives back pay. If that happens, the money received from the retirement fund should be treated as if it were erroneously paid and the Office of Personnel Management should recover the erroneous payment. The waiver provisions under sections 8346(b) and 8470(b) of title 5 should not be applicable.

15. Availability of other remedies

The bill contains a new section 1222 of title 5, United States Code, which provides that the network of rights and remedies created under chapter 12 and chapter 23 of title 5 is not meant to limit any right or remedy which might be avilable under any other statute. Other statutes which might provide relief for whistleblowers include the Privacy Act, a large number of environmental and labor statutes which provide specific protections to employees who cooperate with federal agencies, and civil rights statutes under title 42, United States Code. Section 1222 is not intended to create a cause of action where none otherwise exists or to reverse any court decision. Rather, section 1222 says it is not the intent of Congress that the procedures under chapters 12 and 23 of title 5, United States Code, are meant to provide exclusive remedies.

16. Changes in whistleblowing prohibited personnel practice

The bill makes certain changes in the definition of reprisal for whistleblowing (5 U.S.C. 2302(b)(8)). Among the changes or the inclusion of threats as a prohibited personnel practice, both with relation to whistleblowing and in relation to prohibited personnel practices defined in section 2302(b)(9). Mere harassment and threats, without any formally proposed personnel action, can constitute a prohibited personnel practice under this language.

It is obvious, but worth noting, that no Executive order, regulation, or contract can extinguish the rights provided under section 2302 of title 5. Employees have been required to sign security agreements as a condition for gaining access to classified information which seem to suggest that the signers of such agreements could be punished for disclosures protected by 5 U.S.C. 2302(b)(8). Insofar as these agreements seem to limit the ability of whistleblowers to exercise rights provided under chapters 12 and 23 of title 5, the security agreements are not valid.

Nevertheless, nothing in this bill permits the disclosure of classified information to any uncleared individual. Sections 2302 and 1213 set out clear channels for disclosure of wrongdoing in classified form. Such information can be properly and legally disclosed to the Special Counsel, to the Inspector General of an agency, or to a member of Congress.

17. Changes in appeal right prohibited personnel practice

The bill establishes a new prohibited personnel practice which protects employees in their right to refuse to obey an order that would require the individual to violate a law. This is a narrower form of a provision that was in H.R. 25, as reported. The establishment of this protection is meant to achieve a balance between the right of American citizens to a law-abiding government and the desire of management to prevent insubordination.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, October 3, 1988.

Hon. PATRICIA SCHROEDER,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN SCHROEDER: I would like to commend you for the hard work you have put in over the last eight months on S. 508, the "Whistleblower Protection Act of 1988." While the bill does not provide everything we wanted it will enhance the protection of whistleblowers—a goal which the Administration shares with you.

For the first time a whisleblower will have an independent right to take his case to the Merit System Protection Board (MSPB) and to request that MSPB issue a stay order on his behalf. The bill would also establish threats to take or not take an action as a prohibited personnel practice and would grant whistleblowers preferential treatment in certain transfer actions. Further, the Office of Special Counsel would be established as an agency separate from the MSPB with enhanced authorities.

Pat, thank you for working with Congressman Horton and the Administration on this important legislation.

Best Regards,

JOSEPH R. WRIGHT, JR.,
Deputy Director.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation. It is an excellent bill that I believe will vastly improve our Government's ability to protect those Federal employees who disclose waste and wrongdoing in the Federal bureaucracy. It will help protect these employees from adverse actions that they sometimes endure as a result of their disclosures.

The bill accomplishes this in a number of ways, but principally, it improves the operational and authority structure of the Office of Special Counsel, which is the Federal entity responsible for whistleblower protec-

tion. One of the principal functions of this office, upon its establishment by the 1978 Civil Service Reform Act, was to protect whistleblowers and investigate their allegations.

Hearings conducted by our Civil Service Subcommittee, both in this and in the previous 99th Congress, identified operational deficiencies in the Office of Special Counsel. They also highlighted problems about the mission of the special counsel. This bill, S. 508, addresses both of these areas. It makes very clear that both whistleblower protection and the investigation of whistleblower allegations are principal responsibilities of the Office. It also gives broader authority to the special counsel to exercise its responsibilities.

The bill restricts and specifies the conditions under which disclosures to the special counsel can be released. It makes it easier for whistleblowers to prove a connection between their disclosures of wrongdoing and resultant adverse actions taken against them. The bill requires the regular reporting to whistleblowers of the status of their case. Further, and of great importance is a provision of the bill granting the special counsel the authority to stay actions taken against employees.

Legitimate whistleblowers deserve the fullest protection we can provide. This bill makes great strides forward in providing that protection. And, I might add, it does this without diminishing the ability of agencies and departments to fulfill their respective missions.

It has taken literally two Congress' to reach this point, a point where we now have legislation acceptable to the House, the Senate and the administration. This was no easy task; it took many many hours of hard and sometimes strained negotiation. Two individuals deserve credit for this accomplishment. They are the chair of my Civil Service Subcommittee PAT SCHROEDER and the Deputy Director—soon to be Director—of the Office of Management and Budget, Joe Wright. Both of these individuals and their staffs worked countless hours and overcame countless frustrations to reach this point.

I have the highest regard for Joe Wright, who made a commitment to me and Chairwoman SCHROEDER in early 1987 that he would work with us to fashion a good bill. He did just that. Without his leadership, we would not be here today with the consensus we enjoy. I also want to thank Don Upson, my staff director of the Government Operations Committee, and Andy Feinstein, the staff director of the Civil Service Subcommittee. They worked countless hours, right up until this morning, to bring this bill to the floor.

And finally, to the chairperson of the Civil Service Subcommittee, PAT SCHROEDER. You and I have worked on this bill now for 4 years. Clearly, we are here today because of your leadership, your commitment to whistleblowers, and your ability to negotiate and strike a fair compromise. My hat goes off to you and your staff. It is to your credit that we will pass legislation today that does not just pass the House and die, but that will, I am sure, pass the House, the Senate, and finally, be signed into law by the President.

Congratulations, it has been and is a pleasure to work with you.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 3, 1988.

Hon. FRANK HORTON,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN HORTON: I would like to congratulate you on the fine work you have done over the last eight months to develop the "Whistleblower Protection Act of 1988." While this bill does not include everything we wanted, it will significantly improve protection for whistleblowers—a goal which the Administration shares with you.

For the first time a whistleblower will have an independent right to take his case to the Merit Systems Protection Board (MSPB) and to request that MSPB issue a stay order on his behalf. The bill would also establish threats to take or not take an action as a prohibited personnel practice and would grant whistleblowers preferential treatment in certain transfer actions. Further, the Office of Special Counsel would be established as an agency separate from the MSPB with enhanced authorities.

These new authorities are significant and I would like to thank you personally for the repeated efforts you have made to work with the Administration on developing S. 508.

Best regards,

JOSEPH R. WRIGHT, Jr.,
Deputy Director.

□ 1545

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I want to thank the gentleman from New York [Mr. HORTON] again, and I thank the staff as well for their patience. I appreciate the time, the effort, and the conviction of all these people. This has been an absolutely amazing effort.

Mr. GILMAN. Mr. Speaker, I rise in support of the Whistleblower Protection Act and I commend the gentlelady from Colorado Mrs. SCHROEDER for crafting this bill. The bill provides stronger protection to Federal employees who disclose waste, mismanagement, danger to public safety, and violations of law. It changes the primary role and focus of the Office of Special Counsel [OSC] to protection of employees who claim to be the victims of reprisals for whistleblowing.

Ninety days after enactment, the bill strengthens rights of civil service employees by:

Expanding the OSC role to act as an advocate for individual whistleblowers—similar to the role of attorney-client—rather than an independent enforcer of the Federal personnel merit system;

Establishing the OSC as an independent agency with authorizations of $5 million in each of fiscal years 1989–91;

Not disclosing the identity of an informant without the informant's permission;

Creating an individual right of action allowing employees to seek stays and corrective actions directly from MSPB instead of going through the OSC;

Providing judicial review for individuals adversely affected by a decision or order of the MSPB; and

Permitting individuals who are the prevailing party in an adverse action appeal to receive interim relief based on an administrative judge's decision rather than waiting for the outcome of any petition for reveiw of the decision.

The time has come to ensure that whistleblowers are completely protected by Federal law. This bill goes a long way toward that end. Accordingly, I urge my colleagues to support S. 508.

Mrs. SCHROEDER. Mr. Speaker, I have no further requests for time, and I yield back the balance of time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentlewoman from Colorado [Mrs. SCHROEDER] that the House suspend the rules and pass the Senate bill, S. 508, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

AGRICULTURAL QUARANTINE ENFORCEMENT ACT

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5199) to make nonmailable any plant, fruit, vegetable, or other matter, the movement of which in interstate commerce has been prohibited or restricted by the Secretary of Agriculture in order to prevent the dissemination of dangerous plant diseases or pests, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NONMAILABLE PLANTS.

(a) AMENDMENTS TO TITLE 39.—

(1) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"§ 3014. Nonmailable plants

"(a)(1) Whenever the Secretary of Agriculture establishes a quarantine under section 8 of the Plant Quarantine Act, prohibiting the transportation by common carrier of any plant from any State or other geographic area, the Secretary shall give notice of the establishment of such quarantine to the Postal Service in writing.

"(2) Upon receiving any such notice under paragraph (1), the Postal Service shall ensure that copies of such notice are prominently displayed at post offices located within each State or area covered by the quarantine, and shall take any other measures which the Postal Service considers necessary in order to inform the public both of the establishment of such quarantine and of relevant provisions of this section and sections 1716B and 1716C of title 18 in connection therewith.

"(b) Any plant, the transportation of which by common carrier from any State or other area is prohibited or restricted under any quarantine referred to in subsection (a), is nonmailable matter, and may not be accepted by the Postal Service or conveyed in the mails, if the matter involved is tendered for transmission through the mails from such State or area or if such matter first enters the mails within such State or area.

"(c) The Postal Service shall, after consultation with the Secretary of Agriculture, prescribe rules and regulations permitting the mailing of a plant, and otherwise making subsection (b) of this section inapplicable with respect to such plant, if the method or manner of mailing such plant would be consistent with the procedures set forth in the rules and regulations prescribed under the fourth sentence of section 8 of the Plant Quarantine Act (relating to the inspection, disinfection, and certification of, and other conditions for, the delivery and shipment of plants otherwise subject to quarantine).

"(d) For the purposes of this section—

"(1) 'Plant Quarantine Act' means the Act entitled 'An Act to regulate the importation of nursery stock and other plants and plant products; to enable the Secretary of Agriculture to establish and maintain quarantine districts for plant diseases and insect pests; to permit and regulate the movement of fruits, plants, and vegetables therefrom, and for other purposes', enacted August 20, 1912 (37 Stat. 315 et seq.); and

"(2) 'plant' means any class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, any class of nursery stock (as defined by section 6 of the Plant Quarantine Act), and any other article or matter which is capable of carrying any dangerous plant disease or pest.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3013 the following:

"3014. Nonmailable plants.".

(b) AMENDMENTS TO TITLE 18.—

(1) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 1716A the following:

"§ 1716B. Nonmailable plants

"Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything declared nonmailable by section 3014(b) of title 39, unless in accordance with the rules and regulations prescribed by the Postal Service under section 3014(c) of such title, shall be fined under this title, or imprisoned not more than one year, or both.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716A the following:

"1716B. Nonmailable plants.".

SEC. 2. FORGED AGRICULTURAL CERTIFICATIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 1716B, as added by section 1(b)(1), the following:

"§ 1716C. Forged agricultural certifications

"Whoever forges or counterfeits any certification authorized under any rules or regulations prescribed under section 3014(c) of title 39 with intent to make it appear that such is a genuine certification, or makes or knowingly uses or sells, or possesses with intent to use or sell, any forged or counterfeited certification so authorized, or device for imprinting any such certification, shall be fined under this title, or imprisoned not more than one year, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716B, as added by section 2(b)(2), the following:

"1716C. Forged agricultural certifications.".

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress that the United States Postal Service and the Department of Agriculture should, using the resources and methods available to each, engage in a joint effort to educate the public as to the types of harm which can result from the transmission to different parts of the country of plants, fruits, vegetables, and other matter which may be carrying dangerous plant diseases or pests. To that end, particular emphasis should be placed on such matters as—

(1) the potential for injury to crops and other agricultural products, and the economic consequences to farmers, the consumer, and the Nation's balance of trade, likely to result therefrom;

(2) the environmental impact associated with the spread of plant diseases and pests, including the potentially catastrophic consequences which can result if a natural predator or other inhibiting factor which is present in one area is absent in an area to which the disease or pest has spread; and

(3) the economic and other costs associated with attempting to eliminate or control plant diseases and pests.

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective on the earlier of—

(1) the 366th day after the date of the enactment of this Act; or

(2) the first date as of which all rules and regulations required to be prescribed under the amendments made by this Act have first been published in the Federal Register.

(b) REGULATIONS.—Nothing in this section shall prevent the United States Postal Service from taking any action which may be necessary to prepare and issue, as soon as possible after the date of the enactment of this Act, any rules and regulations which the Postal Service is required to prescribe under any of the amendments made by this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I move to suspend the rules and pass the bill H.R. 5199 with amendments. H.R. 5199, amends Title 39, United States Code, to make nonmailable any plant, fruit, vegetable, or other matter, the movement of which in interstate commerce has been prohibited or restricted by the Secretary of Agriculture in order to prevent the dissemination of dangerous plant diseases or pests.

The Post Office and Civil Service Committee unanimously passed this legislation and the Agriculture and Judiciary Committees have waived jurisdiction. Before I discuss the bill, I would state that the amendments to this legislation make technical corrections to the bill and reduces the maximum penalty for forging a postal certification from 5 years imprisonment to 1 year imprisonment.

Last month, the Los Angeles County agricultural commissioner announced that a $1 million eradication effort had apparently been successful in eliminating a Mediterranean fruit fly infestation in the San Fernando Valley. However, a quarantine remains in effect over a 62-square-mile area. Clearly, fruit flies threaten California's No. 1 industry—agriculture. It is vital that all actions be taken to prevent future infestations. This legislation, H.R. 5199, will provide another weapon to block the spread of agricultural pests and diseases.

Half of the Nation's fruits, vegetables, and nuts are produced by California agricultrue with an annual production value of over $14 billion. This most recent fruit fly infestation is quite probably the result of a plant being transported from Hawaii to California through the U.S. mail.

Last fall, the subcommittee on Postal Personnel and Modernization and the Subcommittee on Postal Operations and Services held hearings on two similar bills, H.R. 1986, introduced by Representative COELHO and H.R. 3223, sponsored by Representative PASHAYAN. Plant diseases and pests

represent a serious threat to American agricultural interests and consumers. Pest infestation not only increases costs and crop loss, but, in addition, reduces the quality of crops and disrupts markets when quarantines are imposed by other States and countries.

H.R. 5199 introduced by Representative COELHO, Congressman PASHAYAN and myself, will stem the mail pathway for plant pests and diseases by prohibiting the mailing of any package which contains a plant which has been listed by the Secretary of Agriculture under the Plant Quarantine Act. At the same time, the bill does not diminish fourth amendment protections of citizens concerning the privacy of the mails.

Packages will be allowed to be mailed, if the package has been certified by the Postal Service, in consultation with the Department of Agriculture, that the package is disease and pest free. This bill includes a criminal penalty for mailing a plant which has not been certified by the U.S. Postal Service. Finally the bill provides that it is the sense of the Congress that the Postal Service and the Department of Agriculture should engage in a joint effort to educate the public relative to the harm that can result from the dissemination of plant diseases and pests.

I would like to commend my colleagues, for their work on this bill which is necessary to prevent the spread of such pests as the Mediterranean and oriental fruit flies. I would especially like to acknowledge the hard work and leadership which Representative TONY COELHO has provided.

Clearly this legislation is long overdue and necessary and will assist in preventing the spread of plant diseases and pests. I urge my colleagues to support H.R. 5199.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support this important legislation introducted by my colleagues CHIP PASHAYAN, TONY COELHO, and FRANK MCCLOSKEY.

Passage of the bill is necessary to prevent the transmission of harmful agricultural pests and diseases through domestic first-class mail. The bill would make nonmailable any plant, fruit, vegetable, or other matter that has been restricted by the Secretary of Agriculture under the Plant Quarantine Act.

California agriculture is presently facing a crisis, that crisis in the infestation of serious agricultural pests and diseases entering the State via first-class mail.

The legislation before us today is essential for the control of destructive pests and plant and animal diseases. Should the infestation of pests and diseases continue it will have a serious economic impact not only on California but on the United States as a whole.

This is bipartisan legislation that has a long legislative history. I believe, and the other parties involved with the legislation firmly believe that this legislation is the answer to the problem of pests entering the United States via first-class mail.

The Congressional Budget Office has said this legislation will not result in any significant cost to the Federal Government, and no cost to State and local governments.

Mr. MCCLOSKEY. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. HORTON], and I yield such time as he may consume to the gentleman from California [Mr. COELHO].

Mr. COELHO. Mr. Speaker, I would like to take this opportunity to thank my colleagues for their consideration of H.R. 5199, legislation I introduced to make nonmailable through first-class mail any quarantined plant, fruit, or vegetable, proven hosts of dangerous and destructive insects. This bill addresses the mailing of this quarantined material in an effort to prevent the dissemination of dangerous plant diseases or pests from one region into another by making it a criminal violation subject to fines up to $1,000, a jail term of 1 year, or both.

The need for this legislation is greater than ever. I was informed earlier this morning that 19 confirmed cases of Mediterranean fruit fly infestations were detected in the Culver City area of California over the weekend. Thirteen additional cases are currently being investigated for suspected infestations.

This is considered a major infestation which will cost anywhere from $2 to $3 million to eradicate. Spraying will begin Wednesday on a 36-square-mile region consisting mainly of residences and businesses.

In recent years, the detection and eradication of pests introduced to the mainland United States via mail parcels from exotic locations such as Hawaii and Puerto Rico has become common news. Six Mediterranean fruit flies were discovered in southern California in July and August of this year.

Eradication efforts have included the spraying of 10,000 acres by air as well as the release of 4 million sterile Mediterranean fruit flies. The cost of this eradication program alone is expected to exceed $1.2 million.

These pests are capable of destroying millions of dollars worth of agricultural goods. According to recent California Department of Food and Agriculture data, the eradication costs associated with the introduction of these pests into California through first-class mail has exceeded $110 million since 1980. Agriculture producers sustained losses of as much as $400 million due to the pest infestations of the early 1980's. Over the past several years, 28 of the 45 congressional districts of California have evidenced the detection and subsequent eradication of dangerous pests.

My legislation addresses this problem giving the U.S. Postal Service the tools it needs to effectively intercept infested packages. By placing a criminal penalty on the mailing of quarantined fruits and vegetables, suspected packages can be profiled and held until sufficient time has been allotted to obtaining a criminal search warrant enabling authorities to inspect the contents of the package. In addition to inspection provisions, the bill also includes language encouraging the U.S. Postal Service and the U.S. Department of Agriculture to initiate an education campaign directed at alerting the general public of the harm which can be sustained due to the mailing of quarantined materials. The inspection authority, in conjunction with the public education campaign, should greatly assist current efforts to curb further mainland infestations of such pests as the Mediterranean and oriental fruit flies.

As I said before, the need for this legislation could not be greater with the discovery of additional Med-fly infestations over the weekend. I would like to thank Mr. FORD, Mr. MCCLOSKEY, and their staff for the attention given this legislation. I appreciate the cooperation of all involved and would like to urge my colleagues to support the passage of H.R. 5199 at this time.

Mr. PASHAYAN. Mr. Speaker, I am pleased to support this important legislation and I want to thank you for your help in bringing the bill to the floor. I support H.R. 5199, and should like to thank my colleague FRANK MCCLOSKEY, the chairman of the Subcommittee on Postal Personnel and Modernization, for his patience and leadership on this measure. I should also like to thank my colleague TONY COELHO who has worked with me for years on finding a solution to this problem. I should also like to thank the State of California's Department of Food and Agriculture for their assistance throughout the drafting and redrafting of this legislation.

Passage of the bill is necessary to prevent the transmission of harmful agricultural pests and diseases through domestic first-class mail. The bill would make nonmailable any plant, fruit, vegetable, or other matter that has been restricted by the Secretary of Agriculture under the Plant Quarantine Act.

We presently face a serious difficulty in California agriculture, the infestation of serious agricultural pests and diseases entering the State via first-class mail.

The legislation before us today is essential to control destructive pests and plant and animal diseases. Should the infestation of pests and disease grow it will have a serious economic impact not only on California, but on the United States as a whole.

Mr. Speaker, this is bipartisan legislation that has a long legislative history. The other parties involved with the legislation and I firmly believe that this legislation is the answer to the problem of pests entering the United States via first-class mail. I hope that may colleagues will be able to support this measure.

Mr. HORTON. Mr. Speaker, I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5199, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONGRESSIONAL DELEGATION IN CEREMONIES FOR THE 200TH ANNIVERSARY OF THE U.S. CONSTITUTION

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 115) providing for participation by delegations of members of both Houses of Congress in ceremonies to be held in April 1989 in New York City marking the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the inauguration of President George Washington, and the proposal of the Bill of Rights as the first 10 amendments to the Constitution.

The Clerk read as follows:

H. CON. RES. 115

Whereas the Constitution officially became the form of government of the United States on March 4, 1789;

Whereas New York City served as the first capital of the United States;

Whereas the first Congress convened in New York City in April 1789;

Whereas George Washington was inaugurated as the first President of the United States in New York City on April 30, 1789;

Whereas while meeting in New York City, the first Congress passed legislation creating the executive departments of the Federal government and the Federal court system; and

Whereas while meeting in New York City, the first Congress, under the leadership of Representative James Madison of Virginia, framed and proposed to the states the ten constitutional amendments known today as the Bill of Rights: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Speaker of the House of Representatives and the Majority Leader of the Senate, in consultation with the Minority Leaders of their respective Houses, are authorized and directed to appoint members of their respective Houses to serve on a delegation of members of the Congress which will take part in ceremonies to be held in New York City in April 1989 commemorating the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the inauguration of George Washington as the first President of the United States, and the proposal of the Bill of Rights as the first ten amendments to the Constitution, and shall invite the President to join this delegation in participating in these ceremonies.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge passage of House Conference Resolution 115, which provides for participation of a delegation of House Members in a Bicentennial celebration in New York City next April 30. This celebration would commemorate the convening of the First Congress, the inauguration of George Washington in New York City and the sending out of the Bill of Rights.

It seems only fitting that the leadership be authorized to recognize and honor the Members of the First Congress and their extraordinary accomplishments.

This resolution has over 150 cosponsors and the support of the Bicentennial Commission.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a senior member of the New York delegation to this body, I am proud to voice my support for House Concurrent Resolution 115. The State of New York has served as a cornerstone in the building of this country. From pre-Revolutionary War days through today, New York has witnessed countless historical events which have enriched the American legacy.

House Concurrent Resolution 115 commemorates the bicentennial of the implementation of our Constitution and the introduction of the 10 constitutional amendments which comprise our Bill of Rights. New York City served as the site of this Nation's first Capital and it was here that George Washington was inaugurated as the first President of the United States. The bill directs a congressional delegation be appointed to participate in ceremonies commemorating these great events. I know I speak for all my colleagues from New York when I urge all Members to support this legislation.

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 115, the bicentennial resolution. The year 1989 will be the 200th anniversary of the establishment of the Federal Government under the Constitution. Our constitutional form of Government is the keystone of our American culture. It is essential that Congress participate in honoring our first Members by participating in these commemorative events in New York City next year.

Accordingly, I urge my colleagues to support House Concurrent Resolution 115 and to attend the festivities of the inaugural, honoring the first Congress and our Bill of Rights.

Mr. SCHEUER. Mr. Speaker, I would like to commend Chairman FORD and the members of the Post Office and Civil Service Committee for their leadership in bringing House Concurrent Resolution 115 to the floor today.

I am hopeful that the House will express the bipartisan support of over 160 cosponsors by passing this resolution.

As my colleague from Indiana, Mr. McCLOSKEY has stated, House Concurrent Resolution 115 provides for participation of a delegation of House Members at the bicentennial celebration in New York City next April.

The celebration will commemorate the inauguration of George Washington, the convening of the first Congress, and the introduction of the Bill of Rights in that Congress.

In New York City, the first Capital of the United States, the first Congress met and passed legislation creating the executive departments of the Federal Government and the Federal court system.

Under the leadership of James Madison of Virginia, they also framed and proposed to the States the first 10 amendments to the Constitution—the Bill of Rights.

It is only fitting that we should send a delegation to recognize and honor the Members of the First Congress and their extraordinary accomplishments.

This resolution would authorize the leadership of each House to appoint Members to serve in the delegation to this historic event.

The resolution has the support of the Bicentennial Commission, which is planning to take an active role in the New York City events.

This resolution does not ask Congress to pay for the events of the celebration. The city of New York, working with distinguished members of the city's legal, academic, and business communities, is raising private funds to pay for all of the events and the restoration of Federal Hall.

In addition, the city is planning programs to promote discussions on the Bill of Rights in its schools and communities.

I would like to commend the city of New York and its Washington staff for their outstanding work in planning this celebration.

Mr. HORTON. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and agree to the concurrent resolution, (H. Con. Res. 115).

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1600

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on House Concurrent Resolution 115, the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

OFFICE OF GOVERNMENT ETHICS REAUTHORIZATION

Mr. SIKORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4712) to reauthorize the Office of Government Ethics, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SEC. 2. REAUTHORIZATION.

Section 405 is amended to read as follows:

"There are authorized to be appropriated to carry out the provisions of this title and for no other purpose—

"(1) not to exceed $2,500,000 for the fiscal year ending September 30, 1989; and

"(4) such sums as may be necessary for each of the five fiscal years thereafter.".

SEC. 3. OFFICE OF GOVERNMENT ETHICS TO FUNCTION INDEPENDENTLY.

(a) ESTABLISHMENT AS A SEPARATE EXECUTIVE AGENCY.—Section 401(a) is amended by striking "in the Office of Personnel Management an office to be known as" and inserting "an executive agency to be known as".

(b) APPOINTMENT AND CONTRACTING AUTHORITY.—Section 401 is amended by adding at the end of the following:

"(c) The Director may—

"(1) appoint officers and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code; and

"(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement, from funds of the Office of Government Ethics in such amounts as may be agreed upon by the Director and the head of the agency providing such services.

Contract authority under paragraph (2) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.".

SEC. 4. REPORTS TO CONGRESS.

The Ethics in Government Act of 1978 is amended by adding after section 407 the following:

"REPORTS TO CONGRESS

"SEC. 408. The Director shall, not later than January 21 of each year in which the first session of a Congress begins, submit to the Congress a report containing—

"(1) a summary of the actions taken by the Director during the 2-year period ending on December 31 of the preceding year in order to carry out the Director's functions and responsibilities under this title; and

"(2) such other information as the Director may consider appropriate.".

SEC. 5. AGENCY PROCEDURES RELATING TO FINANCIAL DISCLOSURE STATEMENTS.

Section 402 is amended by adding after subsection (c) the following:

"(d)(1) The Director shall, by the exercise of any authority otherwise available to the Director under this title, ensure that each executive agency has established written procedures relating to how the agency is to collect, review, evaluate, and, if applicable, make publicly available, financial disclosure statements filed by any of its officers or employees.

"(2) In carrying out paragraph (1), the Director shall ensure that each agency's procedures are in conformance with all applicable requirements, whether established by law, rule, regulation, or Executive order.".

SEC. 6. INFORMATION TO BE REPORTED ANNUALLY BY EXECUTIVE AGENCIES.

Section 402 is amended by adding after subsection (d) (as added by section 5) the following:

"(e)(1) In carrying out subsection (b)(10), the Director shall prescribe regulations under which—

"(A) each executive agency shall be required to submit to the Office an annual report containing—

"(i) a description and evaluation of the agency's ethics program, particularly—

"(I) the various elements comprising the agency's program (including any educational, counseling, or other services provided to officers and employees), as in effect during the period covered by the report; and

"(II) any other matter which the Director may require in order to carry out the functions and responsibilities of the Director under this title; and

"(ii) the position title, and duties of—

"(I) each official who was designated by the agency head to have primary responsibility for the administration, coordination, and management of the agency's ethics program during any portion of the period covered by the report; and

"(II) each officer or employee who was designated to serve as an alternate to the official having primary responsibility during any portion of such period; and

"(B) each executive agency shall be required to inform the Director as to the disposition of any matter referred to in subparagraph (A).

"(2) For the purpose of this title, the term 'ethics program', as used in connection with an agency, means any procedures established, services offered, and other activities carried out by the agency, as part of a program designed to promote compliance by officers and employees of such agency with requirements established by or under law, rule, regulation, or Executive order relating to conflicts of interest, financial disclosure, and standards of conduct.".

SEC. 7. CORRECTIVE ACTION.

Section 402 is amended by adding after subsection (e) (as added by section 6) the following:

"(f)(1) In carrying out subsection (b)(9) with respect to executive agencies, the Director—

"(A) may—

"(i) order specific corrective action on the part of an agency based on the failure of such agency to establish a system for the collection, filing, review, and, when applicable, public inspection of financial disclosure statements, in accordance with aplicable requirements, or to modify an existing system in order to meet applicable requirements; or

"(ii) order specific corrective action involving the establishment or modification of an agency ethics program (other than with respect to any matter under clause (i)) in accordance with applicable requirements; and

"(B) shall, if an agency has not complied with an order under subparagraph (A) within a reasonable period of time, notify the President and the Congress of the agency's non-compliance in writing (including, with the notification, any written comments which the agency may provide).

"(2)(A) In carrying out subsection (b)(9) with respect to individual officers and employees—

"(i) if the Director finds that an officer or employee is violating any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may order the officer or employee to take specific action (such as divestiture, recusal, or the establishment of a blind trust) to end such violation; and

"(II) shall, if the officer or employee has not complied with the order under subclause (I) within a reasonable period of time, notify, in writing, the head of the officer's or employee's agency of the officer's or employee's noncompliance, except that, if the officer or employee involved is the agency head, the notification shall instead be submitted to the President; and

"(ii) if the Director finds that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director may recommend to the head of the officer's or employee's agency that appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) be brought against the officer or employee, except that, if the officer or employee involved is the agency head, any such recommendations may instead be submitted to the President.

"(B)(i) In order to carry out the Director's duties and responsibilities under subparagraph (A) with respect to individual officers and employees, the Director may make findings concerning potential violations of any rule, regulation, or Executive order relating

to conflicts of interest or standards of conduct applicable to officers and employees of the executive branch.

"(ii) Before any such finding is made, the officer or employee involved shall be afforded—

"(I) notification of the alleged violation;

"(II) an opportunity to comment, either orally or in writing, on the alleged violation; and

"(III) an opportunity for a hearing, if requested by such officer or employee, except that any such hearing shall be conducted on the record.

"(3) The Director shall send a copy of any order under paragraph (2)(A)(i)(I) to—

"(A) the officer or employee who is the subject of such order; and

"(B) the head of the officer's or employee's agency or, if the officer or employee is the agency head, to the President.

"(4) For purposes of paragraphs (2)(A)(i)(II), (2)(A)(ii), and (3)(B), in the case of an officer or employee within an agency which is headed by a board, committee, or other group of individuals (rather than by a single individual), any notification, recommendation, or other matter which would otherwise be sent to an agency head shall instead be sent to the officer's or employee's appointing authority.

"(5) Nothing in this title shall be considered to allow the Director (or any designee)—

"(A) to make any finding that a provision of title 18, United States Code, or any criminal law of the United States outside of such title, has been or is being violated; or

"(B) to issue any order, or make any recommendation for disciplinary action, based on any provision of title 18, United States Code, or any criminal law of the United States outside of such title.".

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 3 shall take effect on October 1, 1989.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. SIKORSKI] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4712 reauthorizes the Office of Government Ethics for 6 additional years, establishes it as a separate agency within the executive branch, and makes several other important changes to improve its operation.

It was reported by the Committee on Post Office and Civil Service on August 10 of this year and was jointly referred to the Committee on the Judiciary which had in February of this year reported H.R. 3997, which provided for a straight 6-year reauthorization.

The Office of Government Ethics was established within the Office of Personnel Management [OPM] by title IV of the Ethics in Government Act of 1978. It was originally authorized for 5 years then reauthorized for 5 more years in 1983. In order for OGE to continue its vital work, especially important in this Presidential transition year, we need to work quickly to pass this reauthorization legislation.

As the centralized executive branch ethics office, OGE has the important responsibility of providing overall direction of executive branch policies aimed at preventing conflicts of interest and certain other "ethics" violations by officers and employees of every executive branch agency. Under the Ethics Act, the OGE Director was charged with 15 significant responsibilities. The Director was given the responsibility for:

Developing rules and regulations regarding conflicts of interest, financial disclosure and ethical conduct by executive branch employees;

Monitoring and investigating individual and agency compliance with financial disclosure requirements;

Interpreting conflict of interest rules and regulations;

Providing information on and promoting understanding of ethicals standards in executive agencies; and

Ordering action by agencies and employees to comply with any laws, rules, regulations, and Executive orders, related to conflicts of interest or employee standards of conduct.

Although under the current decentralized executive branch ethics system each agency has front line responsiblity for ensuring that its own employees comply with applicable ethics laws, rules, and regulations, and that its own ethics program is properly administered, OGE is supposed to be the overseer, the important backup or fail-safe mechanism which kicks in to ensure that the ethics system doesn't break down.

Over the past 3 years, the two Post Office and Civil Service Subcommittees I have chaired have devoted a substantial amount of time to examine the inner workings of OGE. We have held a series of hearings and requested several studies looking at agency ethics programs, cases of alleged misconduct, and the mandate, structure, and performance of the Office of Government Ethics. The changes proposed to current law which are contained in the amendment reflect the concerns and findings developed during this detailed 3-year review.

Beyond merely reauthorizing OGE for 6 years, this measure carefully responds to some of OGE's shortcomings. Rather than making sweeping or dramatic changes which would ultimately be unworkable or expensive, the amendment addresses certain problem areas within the context of the current ethics system. The amendment clarifies and refines the current statute, modifying only those portions which clearly need to be changed.

Most importantly, the amendment removes OGE from within OPM and establishes it as a separate excecutive agency. This change is important to ensure that OGE has the stature, visibility, respect, and independence necessary for it to be truly effective. This provision will also provide OGE with the needed administrative freedom and flexibility to enhance its efficiency and effectiveness. Both the current OGE Director and his immediate predecessor, in addition to many others in the Government ethics community, strongly support removing OGE from OPM.

In order to increase OGE and agency accountability, the amendment requires the OGE Director to submit biennial reports to Congress and to promulgate regulations requiring agencies to submit annual reports to OGE. OGE's report to Congress will contain a summary of the actions taken by the Director to carry out his or her statutory responsibilities under Title IV of the Ethics Act, and any other information the Director may consider appropriate. Agency reports to OGE will describe and evaluate the various elements comprising an agency's eithics program, list the titles and duties of agency ethics officials, and contain any other information the Director may require. The agency reports will provide OGE and agencies with management data necessary for ensuring effective overall ethics programs.

Another important provision of the amendment clarifies current statutory language which the gives the OGE Director the responsibility for "ordering corrective action on the part of agencies and employees which the Director deems necessary." Since 1983, many questions have been raised about the precise meaning and scope of this corrective action authority. The confusion surrounding this authority had impeded OGE's effectiveness and needed to be cleared up. Section 7 clarifies the authority by expounding on the current statute to reflect Congress' original intent. In order to utilize this corrective action authority, the Director is given the authority to make findings concerning employees violations of any rule, regulation, or Executive order relating to conflicts of interest and standards of conduct.

The amendment also requires the OGE Director to ensure that each executive agency has established written procedures for the collection, filing,

review, and public availability, if applicable, of financial disclosure reports. These written procedures must be reviewed and approved by the Director. The confidential and public financial disclosure systems can only be effective in preventing and helping to identify potential conflicts of interest if agency officials develop and follow such established procedures. Without them, laxity, inconsistency, and ad hoc determinations render the disclosure system ineffective.

If we are to have a truly effective executive branch ethics system, it is crucial that we have a strong, visible, competent and independent OGE and OGE Director whose policies and actions promote public confidence in government. OGE must do more to ensure that executive branch officials' and employees' decisions are not tainted by conflict of interest and that public servants are acting in the public's interest. This measure will help achieve that end. I strongly urge that it be adopted.

RESPONSE TO HOSTAGE RELEASE

(By unanimous consent, Mr. BLOOMFIELD was allowed to speak out of order for 2 minutes.)

Mr. BLOOMFIELD. Mr. Speaker, I want to take this time to notify the Members that it has just been reported by CNN that an Indian-born American resident being held hostage in Beirut has been released by his captors.

Now, if this report is true, I am sure it pleases all of us.

One can only hope that this is the first step in the eventual release of all the hostages. The terrorists who have taken these hostages should certainly understand by now there is nothing further to be gained from holding these men.

The inescapable fact is that after years of terrorists violence, they have nothing, absolutely nothing to show for it.

We should hope that this release is the first indication that these groups have finally realized that the most effective, the most civilized and the most humane way to resolve differences is through peaceful negotiations.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman and hope that he is right with regard to the disclosure he just made.

Mr. Speaker, I rise in favor of H.R. 4712, a bill reauthorizing the Office of Government Ethics. The Office of Government Ethics provides a crucial role in assuring that the highest officers of the land along with all employees of the Federal Government comply with the financial disclosure and other ethical obligations that the citizens of this country expect of their public officials. I share with many of my colleagues here today deep concern with the litany of media reports dealing with many public officials' failure to strictly observe the ethical and financial disclosure obligations the law imposes upon them. This legislation before us today should serve to strengthen enforcement procedures that are needed to remedy our present ethics dilemma in the excutive branch.

Under this bill, the Office of Government Ethics is established as a separate executive agency. The bill enhances the enforcement functions of the Director of the Office of Government Ethics and provides for the Office's involvement in enforcing any corrective actions. The reauthorization provides for $2.5 million for the first year with such sums as may be necessary for the next five.

Mr. Speaker, this bill should command broad bipartisan support. This carefully drafted compromise represents hours of hard labor on both the part of the Committee on Post Office and Civil Service and the Committee on the Judiciary. I commend the sponsors of this bill and urge all my colleagues to support this legislation.

Mr. SIKORSKI. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I think both the floor managers had a similar purpose in mind, that the gentleman from North Carolina and I are the ranking member and chairman of the Administrative Law Subcommittee of the Committee on the Judiciary, which has shared jurisdiction here.

The way this has evolved, we in the Judiciary Committee have been dealing on several occasions in the past Congress with the substantive nature of the Ethics in Government Act. We have deferred on the whole to our colleagues in the Committee on Post Office and Civil Service to deal with the structure. Obviously, there are mutual interests and there has been interaction. I know the chairman of the full Judiciary Committee has had some interest in the restructuring.

I simply want to say that I think the gentleman from Minnesota and the gentleman from New York and others have done an excellent job in this restructuring of the Office of Government Ethics. It is a shared jurisdiction, as I said, and I believe that on behalf of the Judiciary Committee we feel they have dealt very fairly with the issues involved.

I hope that I will be back on Thursday on the aforementioned subject of the substance of ethics, talking about the postemployment lobbying bill; but at this time I wanted to convey what I believe is the sentiment of the Judiciary Committee that this is a job well done.

Mr. SIKORSKI. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Minnesota.

Mr. SIKORSKI. Mr. Speaker, I thank the gentleman for yielding, and commend him for his hard work and assistance and that of the Judiciary Committee.

Mr. HORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. COBLE] a member of the Committee on the Judiciary.

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the Office of Government Ethics [OGE], as has been stated today, was created in 1978 pursuant to the Ethics in Government Act. When it was initially created, OGE was made a part of the Office of Personnel Management and was authorized for 5 years.

In 1983, OGE was reauthorized for 5 more years. Consequently, it is incumbent upon us to reauthorize it again before the end of the current calendar year.

H.R. 4712, now before us, was reported by the Post Office and Civil Service Committee, and it does in fact remove the OGE from the Office of Personnel Management and creates a new and separate executive agency to be known as the Office of Government Ethics.

The Judiciary Committee shares joint jurisdiction with the Post Office and Civil Service Committee over the Office of Government Ethics, and while these two committees have different approaches and viewpoints towards the OGE, I believe that H.R. 4712 does represent a compromise.

H.R. 4712 reauthorizes the OGE for 6 more years in part, so that the next time we reauthorize this important agency we will not be forced to do so during a Presidential election year.

As an aside, Mr. Speaker, I do want to point out that when we in the Judiciary Committee considered this matter back in March of this year, the authorization was $1.8 million, which is what the President requested.

I notice now that a separate independent agency having been created consisting of only 26 employees, the authorization has increased to $2.5 million.

In closing, Mr. Speaker, I want to assure the body that I am in favor of ethics, but this appears to be awfully inflationary ethics. I think the Appropriations Committee would be well advised to keep a sharp lookout on it subsequently.

I do endorse the bill, however.

Mr. SIKORSKI. Mr. Speaker, I want to commend the gentleman from New York and thank him for his able assistance.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 4712, a bill to reauthorize the Office of Government Ethics [OGE]. I urge my colleagues to support this important ethics-in-Government legislation to make OGE a

stronger, more effective agency, and I commend the distinguished chairman of the Human Resources Subcommittee, the gentleman from Minnesota [Mr. SIKORSKI] for his leadership in crafting this bill.

The Office of Government Ethics was established by the Ethics in Government Act of 1978 to administer, enforce, and oversee compliance with ethics laws throughout the executive branch.

H.R. 4712 contains vital improvements in current law. One of its more important features is that it takes OGE out of the framework of the Office of Personnel Management and makes it an independent agency within the executive branch with the Director removable "only for good cause." Ethics should be a high governmental priority, and the office designed to oversee ethics programs and enforce ethical standards must be seen as having both stature and independence. As an independent entity, the Office of Government Ethics and its Director will have a stronger, more respected voice in the protection of ethical standards in the U.S. Government.

Accordingly, I urge my colleagues to support H.R. 4712.

Mr. HORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SIKORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from Minnesota [Mr. SIKORSKI] that the House suspend the rules and pass the bill, H.R. 4712, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4712, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

ESTABLISHING SPECIAL FEES FOR OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5430) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to establish special fees for the ocean dumping of sewage sludge and industrial waste, and for other purposes.

The Clerk read as follows:

H.R. 5430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF FEES AND PENALTIES FOR OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.

The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is amended by striking out the second section 104A and inserting in lieu thereof the following:

"SEC. 104B. OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.

"(a) PROHIBITIONS.—Notwithstanding any other provision of law—

"(1) after the 180th day after the date of the enactment of this section, no person (including a person described in section 104A(a)(1)(C)) shall dump, or transport for the purpose of dumping, sewage sludge or industrial waste into ocean waters unless such person has obtained a permit issued under section 102 which authorizes such transportation and dumping; and

"(2) it shall be unlawful for any person to dump, or transport for the purposes of dumping, any sewage sludge or industrial waste into ocean waters after December 31, 1992.

"(b) SPECIAL DISPOSAL FEES.—

"(1) IN GENERAL.—Subject to subsection (c)(2)(B), any person who dumps, or transports for the purpose of dumping, sewage sludge or industrial waste into ocean waters shall be liable for a fee equal to—

"(A) $200 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person after the 180th day after the date of the enactment of this section and before January 1, 1990;

"(B) $300 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1990, and before January 1, 1991; and

"(C) $400 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1991, and before January 1, 1993.

"(2) PAYMENT OF FEES.—(A) A person who has established a trust account in accordance with subsection (e)—

"(i) shall deposit into the account an amount equal to 85 percent of any fees for which the person is liable under paragraph (1); and

"(ii) shall pay an amount equal to 15 percent of such fees to the Administrator, for use by the Administrator as provided in subsection (g).

"(B) If a person has not established a trust account in accordance with subsection (e), or if such a trust account established by a person has been terminated under subsection (e)(2)(C)(i), all fees under this subsection shall be paid by the person to the Administrator, for use by the Administrator as provided in subsection (g).

"(c) COMPLIANCE AGREEMENTS AND ENFORCEMENT AGREEMENTS.—

"(1) IN GENERAL.—As a condition of issuing a permit under section 102 which authorizes a person to transport or dump sewage sludge or industrial waste, the Administrator shall require that the person enter into—

"(A) a compliance agreement with the Administrator which meets the requirements of paragraph (2); or

"(B) an enforcement agreement with the Administrator which meets the requirements of paragraph (3).

"(2) COMPLIANCE AGREEMENTS.—(A) An agreement shall be a compliance agreement for purposes of this subsection only if it includes—

"(i) a plan negotiated by the person entering into the agreement and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and cessation of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person by not later than December 31, 1992, through the design, construction, and full implementation of a system of environmentally sound alternatives for the management of sewage sludge and industrial waste transported or dumped by the person; and

"(ii) a schedule which—

"(I) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the system referred to in clause (i);

"(II) may include interim measures to be employed by the person for disposal of sewage sludge and industrial waste until completion of such various activities; and

"(III) meets the requirements of paragraph (4).

"(B)(i) The Administrator shall waive fees under subsection (b) with respect to any person who enters into a compliance agreement which meets the requirements of this paragraph.

"(ii) The Administrator shall reimpose fees under subsection (b) with respect to any person for whom such fees are waived under clause (i) if the Administrator determines that the person has failed to comply with the terms of a compliance agreement which the person entered into under this subsection, and that such failure is likely to result in the person not being able to cease dumping, and transportation for the purpose of dumping, of sewage sludge and industrial waste into ocean waters by December 31, 1992. After any such reimposition of fees, the Administrator may waive such fees at such time as the Administrator determines that the person is in compliance with the compliance agreement.

"(3) ENFORCEMENT AGREEMENTS.—An agreement shall be an enforcement agreement for purposes of this subsection only if it includes—

"(A) a plan negotiated by the person entering into the agreement and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and cessation of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person through the design, construction, and full implementation of a system of environmentally sound alternatives for the management of sewage sludge and industrial waste transported or dumped by the person;

"(B) a schedule which—

"(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the system referred to in subparagraph (A); and

"(ii) may include interim measures to be employed by the person for the disposal of sewage sludge and industrial waste until completion of such various activities; and

"(iii) meets the requirements of paragraph (4).

"(4) SCHEDULES.—Each schedule included in a compliance agreement under paragraph

(2) or an enforcement agreement under paragraph (3) shall provide for, in addition to such other activities that the Administrator considers necessary or appropriate—

"(A) preparation of engineering designs and related specifications for the system referred to in paragraph (2)(A)(i) or paragraph (3)(A), as applicable;

"(B) compliance with appropriate Federal, State, and local regulatory requirements;

"(C) site and equipment acquisitions for such system;

"(D) construction and testing of such system; and

"(E) operation of such system at full capacity.

"(d) PENALTY.—

"(1) IN GENERAL.—In lieu of any other civil penalty under this Act, any person who dumps or transports sewage sludge or industrial waste in violation of subsection (a) shall be liable for a civil penalty, to be assessed by the Administrator, as follows:

"(A) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1993, $800.

"(B) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in any year after calendar year 1993, a sum equal to—

"(i) the amount of penalty per dry ton (or equivalent) for a violation occurring in the preceding calendar year, plus

"(ii) a percentage of such amount equal to 11 percent of such amount, plus an additional 1 percent of such amount for each full calendar year since December 31, 1993.

"(2) PAYMENT OF PENALTY.—(A) Of the total amount of penalties under paragraph (1) for which a person is liable for violations occurring in calendar year 1993, such person—

"(i) shall pay into a trust account established by the person in accordance with subsection (e) 90 percent of such total amount; and

"(ii) shall pay to the Administrator the portion of such total amount which is not paid into such a trust account.

"(B) Of the total amount of penalties under paragraph (1) for which a person is liable for violations occurring in any year after calendar year 1993, such person—

"(i) shall pay into a trust account established by the person in accordance with subsection (e) a percentage of such total amount equal to the difference between—

"(I) 90 percent of such total amount, reduced by

"(II) 5 percent of such total amount for each full calendar year since December 31, 1992; and

"(ii) shall pay to the Administrator the portion of such total amount which is not paid into such a trust account.

"(e) TRUST ACCOUNT.—

"(1) IN GENERAL.—A person who enters into a compliance agreement or an enforcement agreement under this section shall establish a trust account into which the person shall deposit fees and penalties for which the person is liable under this section.

"(2) TRUST ACCOUNT REQUIREMENTS.—An account shall be a trust account for purposes of this subsection only if it meets, to the satisfaction of the Administrator, the following requirements:

"(A) Amounts in the account may be withdrawn only with the concurrence of the person who establishes the account and the Administrator.

"(B) Amounts in the account may be expended only for projects which will identify, develop, and implement—

"(i) environmentally sound alternatives to the disposal of sewage sludge and industrial waste by ocean dumping, including but not limited to alternatives utilizing resource recovery, recycling, thermal reduction, or composting techniques; or

"(ii) improvements in pretreatment, treatment, and storage techniques for sewage sludge and industrial waste to facilitate the implementation of such alternatives.

"(C) Upon a finding by the Administrator that a person did not deposit fees or penalties into an account as required by this subsection, or did not expend amounts from the account in accordance with this subsection, the balance of the amounts in the account shall be paid to the Administrator.

"(3) USE OF UNEXPENDED BALANCE.—Upon a determination by the Administrator that a person has ceased ocean dumping of sewage sludge and industrial waste, the balance of the amounts in an account established by the person under this subsection shall be paid to the person for use in meeting the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) which apply to the person.

"(f) PROGRESS REPORTS.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, and not later than December 31 of 1989, 1990, 1991, and 1992, the Administrator shall prepare and submit to the Congress a report on—

"(A) progress being made by persons issued permits for transportation or dumping of sewage sludge or industrial waste under section 102 in developing and implementing environmentally sound methods for managing sewage sludge and industrial waste;

"(B) progress being made by the Administrator and others in identifying and implementing environmentally sound alternatives to the disposal of sewage sludge and industrial waste by ocean dumping; and

"(C) progress being made toward the cessation of ocean dumping of sewage sludge and industrial waste.

"(2) REFERRAL TO CONGRESSIONAL COMMITTEES.—(A) Each report submitted to the Congress under this paragraph shall be referred to each standing committee of the House of Representatives and of the Senate having jurisdiction over any part of the subject matter of the report.

"(3) CONGRESSIONAL HEARINGS.—If the Administrator makes a finding in the final report submitted to the Congress under this subsection that a permittee under this title cannot reasonably complete the cessation of ocean dumping of sewage sludge or industrial waste by December 31, 1992, each committee of the House of Representatives and of the Senate to which such report is referred—

"(A) not later than 90 days after the date of the referral of the report to that committee, shall hold hearings regarding the findings of the report and appropriate action that should be taken to end ocean dumping of sewage sludge and industrial waste; and

"(B) not later than 270 days after that date of referral, shall issue a report which describes the findings and recommendations of the committee regarding such appropriate action.

"(g) USE OF FEES AND PENALTIES.—

"(1) IN GENERAL.—Of the amount of fees and penalties paid to the Administrator pursuant to each of subsection, (b) and (d) in a fiscal year—

"(A) not to exceed one-third of such amount shall be used by the Administrator, subject to the limitations described in paragraph (2), for—

"(i) costs incurred or expected to be incurred in undertaking activities directly associated with the issuance under this Act of permits for the transportation or dumping of sewage sludge and industrial waste, including an environmental assessment of the direct effects of dumping under the permits:

"(ii) preparation of reports required under subsection (f); and

"(iii) such other research, studies, and projects the Administrator considers necessary for, and consistent with, the development implementation of suitable environmentally sound alternatives for the management of sewage sludge and industrial waste;

"(B) not to exceed one-third of such amount shall be transferred to the Secretary of the department in which the Coast Guard is operating for use, subject to the limitations described in paragraph (2), for—

"(i) Coast Guard surveillance of transportation and dumping of sewage sludge and industrial waste subject to this Act; and

"(ii) such enforcement activities conducted by the Coast Guard with respect to such transportation and dumping as may be necessary to ensure to the maximum extent practicable complete compliance with the requirements of this Act; and

"(C) not to exceed one-third of such amount shall be transferred to the Under Secretary of Commerce for Oceans and Atmosphere for use, subject to the limitations described in paragraph (2), for—

"(i) monitoring and research regarding the effects of the dumping of sewage sludge and industrial waste in, or processing of sewage sludge and industrial waste on, ocean waters; and

"(ii) preparation of annual reports to the Congress describing the results of such monitoring and research.

"(2) LIMITATION ON USE OF AMOUNTS.—The amount of the fees and penalties paid to the Administrator pursuant to each of subsections (b) and (d) in a fiscal year which is used, or transferred for use, by an agency pursuant to paragraph (1) shall not exceed the amount necessary for use by the agency in that fiscal year for activities described in that paragraph, and in no case shall exceed the following:

"(A) For each of fiscal years 1989 and 1990, the amount expended by such agency for such activities in the preceding fiscal year, plus an additional 20 percent of such amount.

"(B) For each of fiscal years 1991 and 1992, the amount expended by such agency for such activities in the preceding fiscal year, plus an additional 15 percent of such amount.

"(C) For each fiscal year after fiscal year 1992, the amount expended by such agency for such activities in the preceding fiscal year, plus an additional 10 percent of such amount.

"(3) WATER POLLUTION CONTROL REVOLVING LOAN FUND CAPITALIZATION GRANTS.—(A) Any amount of the fees and penalties paid to the Administrator pursuant to each of subsections (b) and (d) in a fiscal year which are not necessary for use in accordance with paragraph (1) in such fiscal year shall be used by the Administrator for making capitalization grants to the States of New York and New Jersey for the purpose of establishing a water pollution control revolving fund for providing assistance in any area of such

State for which such fees or penalties were not paid—

"(i) for construction of treatment works (as defined in section 212 of the Federal Water Pollution Control Act) which are publicly owned,

"(ii) for implementing a management program under section 319 of such Act, and

"(iii) for developing and implementing a conservation and management plan under section 320 of such Act.

"(B) Any funds made available by the Administrator for capitalization grants under this paragraph shall be used in the same manner and subject to the same requirements as amounts made available to the Administrator for capitalization grants under title VI of the Federal Water Pollution Control Act; except that the second sentence of section 201(g)(1) of such Act shall not be applicable to such funds and such funds shall be apportioned between the States of New York and New Jersey in the same ratio as the fees and penalties from which such amounts were derived from permittees of each of such States.

"(4) DEPOSIT INTO TREASURY AS OFFSETTING COLLECTIONS.—Any amount of the fees and penalties paid to the Administrator pursuant to each of subsections (b) and (d) which is used by an agency, or transferred for use by an agency, in accordance with paragraph (1) shall be deposited into the Treasury as offsetting collections of the agency.

"(h) ENFORCEMENT.—

"(1) IN GENERAL.—Whenever on the basis of any information available the Administrator finds that a person is dumping or transporting sewage sludge or industrial waste in violation of subsection (a)(1), the Administrator shall issue an order requiring such person to cease such dumping or transporting (as applicable) until such person—

"(A) enters into a compliance agreement or an enforcement agreement under subsection (c); and

"(B) obtains a permit under section 102 which authorizes such dumping or transporting.

"(2) REQUIREMENTS OF ORDER.—Any order issued by the Administrator under this subsection—

"(A) shall be delivered by personal service to the person named in the order;

"(B) shall state with reasonable specificity the nature of the violation for which the order is issued; and

"(C) shall require that the person named in the order, as a condition of dumping, or transporting for the purpose of dumping, sewage sludge or industrial waste into ocean waters—

"(i) shall enter into a compliance agreement or an enforcement agreement under subsection (c); and

"(ii) shall obtain a permit under section 102 which authorizes such dumping or transporting.

"(3) ACTIONS.—The Administrator may request the Attorney General to commence a civil action for appropriate relief, including a temporary or permanent injunction, for any violation of subsection (a) or of an order issued by the Administrator under this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and require compliance.

"(i) DEFINITIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), for purposes of this section—

"(A) the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant; and

"(B) the term 'sewage sludge' means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant.

"(2) EXCLUDED MATERIALS.—The terms 'industrial waste' and 'sewage sludge' do not include—

"(A) any dredged material discharged by the United States Army Corps of Engineers or discharged pursuant to a permit issued by the Secretary in accordance with section 103; or

"(B) any waste from a tuna cannery operation located in American Samoa or Puerto Rico discharged pursuant to a permit issued by the Administrator under section 102.

"(j) LIMITATION ON ENVIRONMENTALLY SOUND ALTERNATIVE.—For purposes of this section, an environmentally sound alternative to the dumping of sewage sludge or industrial waste does not include dumping of such material into ocean waters.".

SEC. 2. CONFORMING AMENDMENT.

(a) AMENDMENT.—Section 4 of Public Law 95-153 (33 U.S.C. 1412a) is amended—

(1) by striking subsection (a);

(2) by striking subsection (b);

(3) by redesignating subsection (c) as subsection (a);

(4) in subsection (a) (as so redesignated) by striking "such title I" and inserting "title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1411 et seq.)";

(5) by striking subsection (d); and

(6) by adding at the end the following:

"(b) For purposes of this section, the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective after the 180th day after the date of the enactment of this section.

SEC. 3. DISPOSAL OF SEWAGE SLUDGE AT LANDFILLS ON STATEN ISLAND.

The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.), as amended by this Act, is amended by inserting after section 104B the following:

"SEC. 104C. PROHIBITION ON DISPOSAL OF SEWAGE SLUDGE AT LANDFILLS ON STATEN ISLAND.

"(a) IN GENERAL.—No person shall dispose of sewage sludge at any landfill located on Staten Island, New York.

"(b) EXCLUSION FROM PENALTIES.—

"(1) IN GENERAL.—Subject to paragraph (2), a person who violates this section shall not be subject to any penalty under this Act.

"(2) INJUNCTION.—Paragraph (1) shall not prohibit the bringing of an action for, or the granting of, an injunction under section 105 with respect to a violation of this section.

"(c) DEFINITION.—For purposes of this section, the term 'sewage sludge' has the meaning such term has in section 104B.".

SEC. 4 USE OF STATE WATER POLLUTION CONTROL REVOLVING FUND GRANTS FOR DEVELOPING ENVIRONMENTALLY SOUND ALTERNATIVES TO OCEAN DUMPING.

Title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381-1387) is amended by adding at the end the following:

"SEC. 608. USE OF CAPITALIZATION GRANTS FOR DEVELOPING ENVIRONMENTALLY SOUND ALTERNATIVES TO OCEAN DUMPING.

"(a) GENERAL REQUIREMENT.—Notwithstanding any other provision of this title, each of the States of New York and New Jersey shall use at least 20 percent of the amount of each grant payment made to such State under this title and 20 percent of the State's contribution associated with such grant payment in the 6-month period beginning on the date of receipt of such grant payment for assisting any person (including any governmental entity) in such State who has entered into a compliance agreement or enforcement agreement under section 104(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 with identifying, developing, and implementing environmentally sound alternatives to ocean dumping of sewage sludge and industrial waste.

"(b) LIMITATION.—If, after the last day of the 6-month period beginning on the date of receipt of a grant payment by the State of New York or New Jersey under this title, 20 percent of the amount of such grant payment and the State's contribution associated with such grant payment has not been used for providing assistance described in subsection (a) as a result of insufficient applications for such assistance from persons eligible for such assistance, the 20 percent limitations set forth in subsection (a) shall not be applicable with respect to such grant payment and associated State contribution.".

SEC. 5. OCEAN DISCHARGES.

(a) COMPREHENSIVE REPORT.—Within six months after the date of the enactment of this Act, the Administrator shall transmit to the Congress a report on the implementation of section 403(c) of the Federal Water Pollution Control Act. The report shall contain an accounting of discharges into the waters of the territorial sea, the contiguous zone, and the ocean, including—

(1) the total number of discharges;

(2) the location, source, volume, and potential environmental effects of each discharge;

(3) the date of original issuance, review, and reissuance of each discharge permit;

(4) the number of discharges that have been determined by the Administrator to be in compliance with the ocean discharge criteria regulations promulgated pursuant to section 403(c); and

(5) recommendations for any additional legislative authorities needed to achieve compliance with section 403(c).

(b) IMPLEMENTATION SCHEDULE.—The President, in submitting his budget for fiscal year 1990, shall include a schedule for implementing section 403(c) of the Federal Water Pollution Control Act and achieving compliance with such guidelines as expeditiously as practicable, and an estimate of the resources required to meet such schedule.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5430 is a compromise bill that has been worked out between the Merchant Marine and Fish-

eries Committee and the Public Works and Transportation Committee.

It involves the very difficult issue of ocean dumping—an issue with which my committee has been dealing for many years.

Because so many Members on our side desire to speak on this matter today, I will not take any further time to discuss the bill.

I am submitting for the RECORD, at the end of my remarks, a section-by-section analysis of H.R. 5430 so that all interested Members will have an opportunity to know what is contained in the compromise.

During the next 40 minutes, a number of Members will discuss the features of the bill. After passage, I will make a number of procedural motions that will lead to the calling of a conference with the Senate.

It is the intent of all of us who have been involved in the ocean dumping issue to resolve our differences with the Senate this week and bring back a conference report before we adjourn.

I would like to thank the leadership of the Public Works Committee for their cooperation on this matter. I am particularly proud of the members of the Merchant Marine Committee who have worked so hard on this compromise.

In particular, I want to commend the gentleman from New Jersey [Mr. HUGHES] who has devoted much of his congressional career to finding a solution to this tough issue.

I believe we have before us that solution.

SECTION-BY-SECTION ANALYSIS OF H.R. 5430

Section 1. Establishment of Fees and Penalties for Ocean Dumping of Sewage Sludge and Industrial Waste:

Section 1 of H.R. 5430 amends the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA, 33 U.S.C. 1401 et seq.) by establishing new terms and conditions for phasing out and ceasing the ocean dumping of sewage sludge and industrial waste.

Subsection (a) prohibits the dumping, or transporting for the purpose of dumping, sewage sludge and industrial waste into ocean waters (1) without a permit issued by the Administrator of the Environmental Protection Agency (EPA); and (2) after December 31, 1992. A person who has an existing permit to dump under the MPRSA need not obtain a new permit from EPA provided the existing permit meets all the terms and conditions of this Act and the person enters into a compliance agreement or enforcement agreement with EPA in accordance with subsection (c).

Subsection (b) establishes *special disposal fees* to be paid by any person who dumps, or transports for the purpose of dumping, sewage sludge or industrial waste into the ocean. The fees commence within six months of enactment of this Act and are set at $200 a dry ton (or equivalent) for sewage sludge or industrial waste dumped before January 1, 1990; $300 a dry ton (or equivalent) for sewage sludge or industrial waste dumped after January 1, 1990, and before January 1, 1991; and $400 a dry ton (or equivalent) for sewage sludge or industrial waste dumped after January 1, 1991, and before January 1, 1993.

Subsection (b)(2) requires the dumper to deposit 85 percent of the fees into a trust account to be set up by the dumper and to pay 15 percent to the Administrator of EPA. If the dumper has not established a trust account, or the Administrator finds that the dumper has not expended money in the trust account on authorized uses, all fees shall be paid to EPA.

The special disposal fees will be waived if a person enters into a compliance agreement with EPA and ceases all ocean dumping by December 31, 1992.

Subsection (c) authorizes the Administrator to enter into two types of agreements with dumpers—*Compliance agreements and enforcement agreements.* Municipalities dumping sewage sludge and companies dumping industrial waste must obtain a permit from EPA and enter into one of these agreements if they want to continue dumping after six months from enactment of this Act. If, in the opinion of the Administrator, the person can reasonably be expected to cease all dumping by December 31, 1992, the Administrator may enter into a compliance agreement with the person. In all other cases, the Administrator and dumper must enter into an enforcement agreement. Although the burden of proof is on the dumper to establish their qualifications (including financial qualifications) for a particular agreement, the decision whether to enter into the agreement lies ultimately with the Administrator.

A compliance agreement must contain a plan negotiated by the dumper and EPA which will result in the phasing out and cessation of all ocean dumping by December 31, 1992, and a schedule which specifies dates for implementing a system of environmentally sound alternatives for the management of sewage sludge or industrial waste, as the case may be. The plan may contain interim as well as long-term measures for the disposal of sludge and industrial waste other than by ocean dumping. The Committees encourage the dumpers to use short-term, environmentally sound measures so as to meet the December 31, 1992, deadline. The Administrator must waive the special disposal fees for those persons who enter into a compliance agreement, except that the fees will be reimposed if the person is not complying with the terms of the agreement.

An enforcement agreement must contain all the elements of a compliance agreement, but the special disposal fees are not waived.

Subsection (d) establishes a new schedule of *civil penalties* for persons who violate the prohibition on ocean dumping after December 31, 1992, and the prohibition on dumping without a permit. These penalties replace the existing civil penalties in section 105(a) of the MPRSA for violations of subsection (a).

For each dry ton (or equivalent) of sewage sludge or industrial waste that a person dumps into the ocean after December 31, 1992, the person must pay a civil penalty of $800. For each calendar year after 1993, the penalty increases by an amount equal to 11 percent of the penalty assessed in the previous calendar year plus one additional percent. For example, the penalty in 1995 will be the penalty per dry ton in 1994 plus 12 percent.

In calendar year 1993, the person must deposit 90 percent of the penalty assessed into a trust account established under subsection (e) and pay the remaining 10 percent to the Administrator of EPA. In each subsequent year, the amount to be paid by the person into the trust account for the dumper's use is reduced by 5 percent. Therefore, in calendar year 1994, the amount deposited in the trust account is 85 percent of the total penalties; in 1995, 80 percent, and so forth. The remainder of the penalties each year is paid to the Administrator.

Subsection (e) provides for the establishment of *trust accounts* by the dumpers. Each person who enters into a compliance agreement or an enforcement agreement must establish a trust account for the deposit of fees and penalties assessed under this Act. Amounts in the trust account may only be withdrawn with the concurrence of EPA and may only be expended on the development of environmentally sound alternatives to ocean dumping, including improvements in pretreatment and treatment of sewage sludge and industrial waste. (Environmentally sound alternatives do not include dumping the sewage sludge or industrial waste into the ocean.) Funds remaining in the trust account after the person has ceased all ocean dumping shall be used by the person to meet the applicable requirements of the Federal Water Pollution Control Act.

Subsection (f) requires EPA to submit *progress reports* to the Congress. Within 6 months after the date of enactment and by December 31, 1989, 1990, 1991, and 1992, the Administrator must report to Congress on programs being made by persons to cease ocean dumping. If in the final report submitted to Congress, the Administrator finds that a permittee cannot reasonably cease ocean dumping by December 31, 1992, each House and Senate Committee with jurisdiction over the matter shall, within 90 days, hold hearings and, within 270 days, issue a report describing the Committee's findings and recommendations.

Subsection (g) describes the *use of the fees and penalties* paid to the Administrator and the *limitation on the Federal Government's expenditure of these payments.* In general, one-third of the amount shall be used by EPA to pay for costs EPA incurs in permitting ocean dumping, assessing its environmental effects, preparing progress reports, and carrying out research on environmentally sound alternatives. EPA must transfer another one-third of the amount received to the Coast Guard for its use in surveillance and enforcement of ocean dumping activities. EPA must transfer the final one-third to the Administrator of the National Oceanic and Atmospheric Administration (NOAA) for NOAA's monitoring and research efforts.

The agencies are limited in the amount of money they can expend in any particular fiscal year to the amount necessary to carry out their tasks, subject to specific percentage increases in any one year. Funds paid to the Administrator which are not necessary to carry out the agencies' specific tasks related to ocean dumping shall be used by the Administrator to make grants to the states of New York and New Jersey for deposit in those states' revolving loan funds established under title VI of the Federal Water Pollution Control Act. New York and New Jersey can then use the money in their revolving funds to assist municipalities (other than those which have paid the fees and penalties) in constructing publicly owned treatment works, implementing a nonpoint source management program, and developing and implementing a management plan for a national estuary within the state.

Subsection (h) provides EPA with additional *enforcement authority* to enforce the terms of this Act. If the Administrator finds that a person is violating the prohibitions on ocean dumping, the Administrator may issue an administrative order requiring the person to comply with the prohibitions and to enter into a compliance agreement or enforcement agreement as a condition of continued dumping. The Administrator may request the Attorney General to bring a civil action to enforce the terms of the order or any prohibitions in this Act.

Subsection (i) contains new *definitions of industrial waste and sewage sludge* for purposes of this Act. These definitions are technical descriptions only and eliminate the proviso in P.L. 95-153 that industrial waste and sewage sludge may be dumped if it does not "unreasonably degrade" the marine environment. Excepted from the scope of these definitions and the prohibitions of this Act are: (1) dredged material disposed of under a permit issued by the Corps of Engineers under section 103 of the MPRSA; and (2) wastes from tuna cannery operations in American Samoa or Puerto Rico for which the Administrator has issued a permit under section 102 of the MPRSA.

Subsection (j) provides a *limitation on the term "environmentally sound alternative"*. The Committees intend to proscribe any dumping of sewage sludge or industrial waste into the ocean as an environmentally sound alternative. However, the Committees do not intend by this act to prohibit consideration of other alternatives, such as ocean incineration, provided the alternative meets all applicable legal requirements and EPA finds the alternative to be "environmentally sound".

Section 2. Conforming Amendments:

Section 2 contains conforming amendments to P.L. 95-153, the 1977 amendments to the Ocean Dumping Act. The amendments repeal subsections (a), (b), and (d) of P.L. 95-153 pertaining to ending ocean dumping after December 31, 1981, authorizing research permits for dumping of industrial waste and defining the terms "sewage sludge" and "industrial waste". The authority to issue emergency permits for dumping of industrial waste would remain in the Act.

Section 3. Staten Island Landfills:

Section 3 prohibits any person from disposing of sewage sludge, as defined in this Act, at any landfill located on Staten Island, New York. Persons who violate this prohibition are not subject to any civil or criminal penalty under the Act but may be enjoined from continuing the dumping.

Section 4. Use of State Water Pollution Control Revolving Funds:

Section 4 amends title VI of the Federal Water Pollution Control Act concerning the use of state water pollution control revolving fund grants. It requires the states of New York and New Jersey to use at least 20 percent of their federal grant payments under title IV and 20 percent of the state's contribution to the title VI revolving fund to assist persons within those states, who have entered into compliance or enforcement agreements with EPA, with identifying, developing, and implementing environmentally sound alternatives to ocean dumping. If a state has received insufficient requests for assistance from dumpers within six months from receipt of its title VI grant payment, the 20 percent limitation is removed.

Section 5. Ocean Discharges.

Section 5 pertains to EPA's implementation of the ocean discharge requirements of section 403 of the Federal Water Pollution Control Act (43 U.S.C. 1343). Section 403 requires EPA to promulgate guidelines for determining the harmful effects of discharging pollutants into the ocean and to ensure that no permit is issued under section 402 of the Clean Water Act if the discharge would be inconsistent with the guidelines. Although ocean discharge guidelines were promulgated by EPA in 1981, to date, EPA has required only oil and gas companies operating on the outer continental shelf, and a very limited number of other specific dischargers, including fish processing and timber operations, to comply with the guidelines. Information provided by EPA suggests that well in excess of 2,000 facilities nationwide are discharging into ocean waters without having been reviewed for compliance with the ocean discharge guidelines. Section 5 of this Act requires EPA to report to Congress within six months on its implementation of section 403 and to include in the President's FY 1990 budget request a schedule and estimate of resources needed to implement section 403. The report and schedule apply only to those dischargers that, under current law, are subject to section 403.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a pleasure for me to rise in support of H.R. 5430, a bill that establishes the terms and conditions for ending the ocean dumping of sewage sludge and industrial waste. I am pleased, because as a representative from the South Shore of Long Island, NY, this is a very important bill for my constituents.

As many of our colleagues are aware, this legislation has been under development for quite some time. It's borne of the realization that man can no longer continue to degrade our seas and marine life by disposing sludge and industrial wastes in the ocean. I remember all too clearly how the 12-mile dump site, the New York Bight, turned into a virtual wasteland, devoid of marine life. Unfortunately, our current practice of shipping treated sludge further out to the 106-mile site only postpones the day of reckoning.

H.R. 5430 is the result of growing concern over the continued dumping of treated sewage sludge in the Atlantic Ocean at the designated site 106 miles offshore. This site for sewage sludge disposal was selected by the Environmental Protection Agency [EPA] after long debate several years ago as a substitute for dumping sewage sludge in the New York Bight. At the time the 106-mile site was chosen, there was a belief that the waters were so deep and the site so far offshore that it would allow for the dispersal of this treated sewage sludge in an environmentally sound manner.

Some maintain that there is no credible evidence that dumping of treated sludge has caused any significant environmental degradation in the area. Nevertheless, in the abundance of caution, it's time to bring this activity to an end. This country must lead the world in ending practices that can have adverse impacts on our environment.

Finding an environmentally safe alternative to ocean disposal of treated sewage sludge may be difficult—and certainly will be expensive. But this legislation sets in motion a process that will lead to appropriate alternatives to ocean dumping.

It does so by offering a long-term solution to the sludge disposal dilemma. Most of the fees and civil penalties assessed under the bill will be turned back to help local government find and implement environmentally sound alternatives to ocean dumping of sewage sludge and industrial wastes. That is the key to making this program work.

This bipartisan compromise is the product of intense negotiations between Congress and affected State and local municipalities. In fact, my home county of Nassau on Long Island is one of the nine municipalities that has been legally disposing of its treated sewage sludge at the dumpsite 106 miles offshore. Nassau County officials have been working for quite some time with the EPA and private contractors to develop a plan to phase out the county's Ocean Dumping Program. They are optimistic that they will be able to eliminate this practice and that the bill we are considering today will help in that effort.

At this point, I would like to compliment the members of the House Public Works and Transportation Committee for their diligent efforts in working with members of the Merchant Marine and Fisheries Committee and State and local officials to help craft this compromise legislation. I am pleased that the two committees have now been able to come to grips with this problem and to develop a rational legislative response.

Mr. Speaker, this legislation represents one more constructive step in helping our Nation deal with its waste disposal crisis. And, as we approach the end of the 100th Congress, the enactment of this legislation should be viewed as just the beginning of the congressional effort to come to grips with the monumental problems that our Nation faces not only for the disposal of sewage sludge, but also for medical, industrial, municipal, and household wastes.

I hope that all Members of this distinguished body realize that, for the next several years, the solving of the country's waste disposal problems must be at the top of our legislative agenda. I applaud the efforts of the Members who have worked on this particular compromise and hope that we will be able to continue this bipartisan effort to solve the rest of our national waste disposal problems.

Mr. Speaker, I urge all my colleagues to join with us to enact this bill.

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At the top of the agenda, I applaud the Members who have worked on this particular compromise and hope we will be able to continue this bipartisan effort to solve the rest of our national waste disposal problems.

Mr. Speaker, I want to commend the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES]; the gentleman from New Jersey [Mr. SAXTON]; the gentleman from New Jersey [Mr. HUGHES], who are the original cosponsors of the bill, the gentleman from New York [Mr. MANTON], and the gentlewoman from Rhode Island [Miss SCHNEIDER] for their leadership in crafting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Speaker, H.R. 5430, a bill to impose special fees on the ocean disposal of sewage sludge and industrial waste and to prohibit such dumping after December 31, 1992, represents the combined efforts of our Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries. We worked together to fashion a bill that is tough but fair, one that rewards early action in finding alternatives to ocean disposal and punishes delay. I want to commend the chairman of the full committee, the gentleman from California [Mr. ANDERSON] for his leadership in these efforts and I particularly want to thank the two gentlemen from New Jersey [Mr. ROE and Mr. HUGHES] for the crucial role they played in bringing this bill to the floor. As well as the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and the gentleman from Minnesota [Mr. STANGELAND] representing the minority.

Ocean disposal of sewage sludge and industrial waste is prohibited after December 31, 1992. During the period beginning 6 months after the date of enactment and ending on December 31, 1992, special fees are imposed for ocean disposal. The fees start at $200 a dry ton or equivalent in 1989 and increase to $300 a dry ton in 1990 and $400 a dry ton in 1991 and 1992. No ocean disposal may take place without a permit after 6 months after enactment. In order to obtain a permit, a person must enter into a compliance agreement or an enforcement agreement. A compliance agreement is one which contains a plan which in the opinion of the Administrator will result in the phasing out and cessation of ocean disposal by December 31, 1992. Ocean dumping fees are waived for a person entering into such an agreement. Persons not able to enter into a compliance agreement must enter into an enforcement agreement which sets forth a schedule for the phasing out and cessation of ocean disposal by a subsequent date.

For any ocean disposal which continues beyond the December 31, 1992, date, substantial and escalating penalties are imposed, starting at $800 a dry ton or equivalent and increasing each year by ten percent plus an additional percent for each year after 1993.

Each permittee is to establish a trust account into which 85 percent of the fees are deposited. Also, beginning in 1993, 90 percent of the penalties is deposited in the account, with this percentage declining 5 percent in each succeeding year. The remainder of the penalties and fees is paid to EPA and is available for use by EPA for administration and research, the Coast Guard for enforcement, and NOAA for monitoring and research. The amounts available to these agencies are limited to the amount expended in fiscal year 1988 plus a 20-percent increase over the prior year's amount in 1989 and 1990, a 15-percent increase over the prior year's amount for 1991 and 1992, and for 1993 and beyond a 10-percent increase over the prior year's amount.

There are three important provisions in the bill which are designed to facilitate the implementation of environmentally sound alternatives to ocean disposal and to assist generally in the cleanup of navigable waters and coastal waters. The first of these provides that the funds in the trust account may be withdrawn with the concurrence of EPA and expended for the identification, development and implementation of alternatives to ocean disposal. The second provides that the amounts of the penalties and fees which are paid to EPA and not used by the three agencies for administration, monitoring and enforcement are to be used by EPA to make grants to the States of New York and New Jersey for deposit in their revolving loan funds established under title VI of the Federal Water Pollution Control Act. Last funds remaining in the trust account after ocean disposal has stopped are to be paid to the permittee for use in meeting the requirements of the Federal Water Pollution Control Act.

The penalties and fines are thus used both to hasten the end of ocean disposal and to clean up navigable and coastal waters.

Mr. Speaker, this bill is needed, it is justified, it is equitable, and it will work. I strongly urge its passage.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the principal author of this bill and the one who has been the chief sponsor, the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES], and I thank him and the ranking Republican on the committee, the gentleman from New York [Mr. LENT], the gentleman from California [Mr. ANDERSON], the chairman of the full Committee on Public Works, my good friend and colleague, the gentleman from New York [Mr. NOWAK], the chairman of the Water Resources Committee and his ranking member, the gentleman from Minnesota [Mr. STANGELAND] for their work and, in particular, I want to commend my colleague, the gentleman from New Jersey [Mr. SAXTON], who has worked diligently with me in crafting this legislation, and the gentlewoman from Rhode Island [Miss SCHNEIDER].

Basically we began working on this legislation early in the hunt this Congress. It is a good bill. I also want to thank our colleagues, the gentleman from New Jersey [Mr. ROE], who played a very key role as well as the gentleman from New Jersey [Mr. GALLO], the gentleman from Delaware [Mr. CARPER], who has worked with me on ocean dumping for many years, the 6 years that he has been in the Congress, the gentleman from Maryland [Mr. DYSON], and so many others who have worked very hard on this legislation.

Mr. Speaker, the goal of this bill is to end ocean dumping and clean up our waters. Although ocean dumping may not be the only source of marine pollution, it is a major one. It is harming our fisheries and jeopardizing multibillion-dollar tourist industries in a number of States along the eastern seaboard. It has been estimated that New Jersey alone has lost over $1 billion this past summer because of the perception that our waters are not clean or safe for swimming.

H.R. 5430, the Ocean Dumping Ban Act reflects the strong bipartisan support of both the Merchant Marine and Public Works Committees in bringing a long-overdue end to the dumping of sewage sludge and industrial waste into our Nation's oceans. This legislation is strong and comprehensive in scope—combining a ban on ocean dumping by December 31, 1992, with funding and enforcement mechanisms necessary to ensure that the ban will be effective.

When Congress first enacted the ocean dumping ban that our late colleague E.S. Forsythe and I wrote in 1977, there were more than 100 municipalities and 300 industrial dumpers that had permits or were seeking permits to dump in the ocean. As the December 31, 1981, deadline approached,

nearly all of those, including Philadelphia, had found alternatives.

But the ocean dumping ban was never fully implemented because of a successful last-minute legal challenge brought by New York City—the granddaddy of the dumpers—and supported by several other New York and Northern New Jersey communities.

Today, just one industry and nine municipalities continue to dump waste in the ocean. This legislation will, at long last, put a stop to all ocean dumping.

Six months after the date of enactment of this act, no one will be allowed to dump sewage sludge or industrial waste into ocean waters unless they have obtained a permit. The permit will impose an escalating per dry ton special disposal fee.

The special disposal fees will be waived if the permittee enters into a compliance agreement and agrees to develop and implement environmentally sound alternatives by December 31, 1992.

The dumpers that do not enter into a compliance agreement will enter into an enforcement agreement and pay the special disposal fees: $200 per dry ton during calendar year 1989; $300 per dry ton during calendar year 1990; and $400 per dry ton during calendar years 1991 and 1992.

If a permittee violates the law and dumps after December 31, 1992, penalties beginning at $800 per dry ton will be imposed, increasing by 11 percent in 1994, 12 percent in 1995, 13 percent in 1996, and so forth. For example, if New York City dumped its sewage sludge beyond the deadline, it would pay over $116 million dollars in 1993. If New York City continued to dump in 1994, it would pay approximately $130 million.

And, 85 percent of the fees and a portion of the penalties will be placed into a trust account that the dumpers may use for the development and implementation of environmentally sound alternatives. The amount of the penalties placed into this trust account will decrease by 5 percent each year. Therefore, the amount the dumpers could recoup would decrease each year. New York City, for example, would lose approximately $11 million in 1993, increasing to a loss of approximately $20 million in 1994, and $30 million in 1995.

In addition, 20 percent of the grants used for the revolving loan fund pursuant to the Clean Water Act will be earmarked for assisting permittees in changing to more environmentally sound alternatives.

The fees and penalties paid to the Administrator that are not necessary for carrying out its activities, will supplement this revolving loan fund. Therefore, those municipalities using alternatives other than ocean dumping will be assured of having sufficient funds for upgrading their sewage treatment plants and carrying out the necessary programs pursuant to the Clean Water Act.

This legislation offers a sensible strategy for ceasing ocean dumping and addressing our ocean pollution concerns. It is a good bill. I urge your support.

Mr. Speaker, I want to thank, in addition to the Members who have worked very hard to bring us to this day, the staffs of the Committee on Merchant Marine and Fisheries and the staff of the Committee on Public Works for doing an excellent job. We started the process back in 1977. We thought we had them out again, and this is going to finish the job.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I want to thank the distinguished chairman, and I want to join in.

I am putting my statement in the RECORD rather than take the time, because I think my colleague, the gentleman from New Jersey [Mr. HUGHES], has done a very, very commendable job as he always has done in explaining the background and facts of this particular legislation. I want to pay my high regards to the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES], and the chairman of the Committee on Public Works, the gentleman from California [Mr. ANDERSON], and I think we boiled it really down to one point, that I think it is time we did something about it.

Mr. Speaker, today we have the opportunity to correct an environmental travesty; the dumping of damaging sewage sludge into our most valuable oceans. By passing H.R. 5430, we can finally put an end to this obnoxious practice, which has thwarted the obvious intent of Congress for the past 10 years. Since 1978 when this body enacted legislation which became law calling for the cessation of dumping, we have met with nothing but foot dragging and legal maneuvering to delay and circumvent the law.

Mr. Speaker, I rise in support of the bill. It addresses a situation which has become increasingly unacceptable—the disposal of sewage sludge in ocean waters. This bill represents the efforts of two committees—Public Works and Transportation and Merchant Marine and Fisheries. These two committees have worked hard and successfully to arrive at legislation which will finally end the practice of disposing of sewage sludge and industrial waste at sea.

The bill makes it unlawful to dispose of sewage sludge and industrial waste in the ocean after December 31, 1992. Prior to that date, no disposal is allowed unless it is permitted by EPA. In order to obtain a permit, a person must enter into either a compliance agreement or an enforcement agreement. A compliance agreement is one which sets forth a plan of action that will result in the cessation of ocean dumping by December 31, 1992. An enforcement agreement is entered into by those who cannot meet the 1992 date, and sets forth a schedule for the cessation of dumping.

The bill contains very strong incentives for the cessation of ocean dumping. Prior to the December 31, 1992 date, permittees must pay a special ocean disposal fee which starts at $200 a dry ton in 1989 and increases to $300 a dry ton in 1990 and $400 a dry ton in 1991 and 1992. These fees are waived for those who have entered into a compliance agreement.

After December 31, 1992, the fees are replaced by much higher penalties for those who are still dumping in the ocean. The penalties start at $800 a dry ton and increase each year by 10 percent plus an additional one percent for each year beyond 1993.

An innovative feature of the bill is the use to which fees and penalties are put. Permittees paying fees are to establish a trust account into which 85 percent of the fees are deposited. Also, starting in 1993, 90 percent of any penalties is deposited in the account, with the amount decreasing by 5 percent each year. The remainder of the fees and penalties is paid to EPA.

The money in the trust account may be withdrawn with EPA's concurrence, and may be used for the identification, development, and implementation of alternatives to ocean dumping.

The fees and penalties paid to EPA are made available to that agency and to the Coast Guard and NOAA for administration, enforcement and monitoring and research within specified ceilings. Funds over and above this amount are available to make grants to the States of New York and New Jersey—the only States from which sludge is disposed of in the ocean—for deposit in those States revolving loan funds established under the Federal Water Pollution Control Act.

Finally, any funds left over in an account after the cessation of ocean dumping may be used by the permittee to meet its requirements under the Federal Water Pollution Control Act.

Finally, 20 percent of a State's grant for its revolving loan fund, plus 20 percent of the associated State share, is available only to make loans to a permittee for alternatives to ocean dumping. If not so utilized within 6 months of the grant, the funds may be loaned to other communities in the State. This provision is designed to ensure adequate State involvement in the process of bringing a halt to ocean disposal of sewage sludge.

The bill uses a combination of incentives and assistance to end ocean

dumping at an early date. Its provisions are fair and workable. It will provide for an effective way to implement environmentally sound alternatives to ocean dumping. I strongly urge its passage.

I have vigorously supported legislation during this time calling for the end of ocean dumping, and yet some 8 million wet tons of sludge a year are still being dumped. With this bill we can look these people directly in the eye and say, "Nobody has the right to dump their slop in the ocean. Period."

This summer has demonstrated beyond a shadow of a doubt that the ocean is not a bottomless pit for our garbage. It has given us fair warning by spewing needles and bloody bandages on our beaches and by littering our shores with sick and dying dolphins—if we continue to defile the ocean with our sewage, with our medical waste, and with whatever garbage we neglect to dispose of properly, the vast ocean which we once thought of as immeasurable will choke and die. Our shores will be nothing more than a polluted bathtub ring.

This legislation is the result of a bipartisan compromise worked out by interested members of the Public Works and Merchant Marine Committees. It is a tough but balanced measure which penalizes dumpers for their actions and yet gives them the means and incentives for doing what should have been done 10 years ago. It will insure these agencies will stop dumping their sewage sludge in the ocean by December 31, 1992.

Fines and penalties will be placed into a trust account that may be used by the dumper to plan and implement environmentally sound alternatives to ocean dumping. The States will also be involved in aiding the municipalities in other methods of solid waste disposal. The bill requires them to earmark up to 20 percent of their grant payments under the Clean Water Act to aid in the construction of land facilities and implementing compliance plans. I believe this is an extremely important point. It is essential that the States become intimately involved in getting the dumpers in their jurisdiction out of the ocean. This is not just a problem for the municipalities themselves. It must be addressed by the entire State, and this provision insures the State will give the problem due consideration.

This measure is important not only to spell out what Congress thought it had mandated in 1978, but it is the next major step in treating our environment with the respect it deserves and now has begun to demand. Mr. Speaker, my colleagues are aware of my long history of dealing with environmentally sensitive legislation, especially on the issue of water resources. Let me say that I feel this to be a matter of vital concern, and this is a strong and effective answer.

In closing, I wish to commend all my colleagues who contributed to bringing this bill to the floor, Messrs. HUGHES, SAXTON, GALLO, NOWAK, STANGELAND, ANDERSON, JONES, MOLINARI, Miss SCHNEIDER, and the members of both the Public Works and Merchant Marine Committees. In particular I wish to single out Mr. HUGHES who has been battling this issue for 10 years. He is to be highly commended for his patience and perseverance. It took a great deal of time and effort to bring this legislation to the floor, but I feel we have a good bill, and I would hope that we can move this measure through both bodies and into law in the short time we have left.

Mr. LENT. Mr. Speaker, I yield 4 minutes to a member of the Committee on Merchant Marine and Fisheries, a coauthor and original sponsor of this legislation, the gentleman from New Jersey [Mr. SAXTON].

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. SAXTON. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I rise in strong support of this measure. It is long overdue.

Mr. Speaker, I rise in support of H.R. 5430, the Ocean Dumping Ban Act of 1988. Permit me to commend the Chairmen and Members of the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation who have diligently labored to prohibit the ocean dumping of sewage sludge. In particular, I would like to cite the leadership of my colleagues from New Jersey, Mr. HUGHES, Mr. ROE, Mr. GALLO, and Mr. SAXTON, the gentlelady from Rhode Island, Miss SCHNEIDER, and my distinguished friends from New York, Mr. NOWAK and Mr. MANTON, for their efforts to negotiate a reasonable compromise which is cost-effective and environmentally sound.

Mr. Speaker, I am pleased to be an original cosponsor of this measure which conclusively affirms our Federal prohibition against continued dumping of sludge. Our legislation will establish environmental trust funds to provide incentives for state and local governments to expedite their development of sound alternatives to ocean sludge disposal. The fees and penalties collected in the trusts will finance Federal research and compliance activities, as well as provide a revenue base for the development and construction of new, alternative sludge disposal facilities.

The enactment of this legislation sends a strong signal to the American public that Congress has recognized the ill-fated expediency of continued ocean dumping. As my colleagues are aware, a portion of my own 22d Congressional District is affected by this legislation, and I am pleased that my constituents are willing to accept the challenge of ending ocean pollution. In particular, I am pleased that this proposal will accomplish our task in manner which is realistic and feasible from the perspective of both technology and the economy.

Accordingly, I urge my colleagues to support the Ocean Dumping Ban Act so that we all might enjoy the majestic beauty of untainted ocean shores and I request that the attached Reporter Dispatch editorial indicating some of the views in my district, be inserted at this point in the RECORD:

[From the Reporter Dispatch, Oct. 3, 1988]

FAIR COMPROMISE ON SLUDGE DUMPING

Relying heavily on a compromise that Gov. Cuomo worked out with Gov. Thomas Kean of New Jersey, the House of Representatives has finally put together a bill that would ban dumping sewage sludge at sea.

It will not happen as soon as some environmentalists and many ocean swimmers would like, but it will happen.

Sludge—the residue of sewage treatment—is the largest single cause of ocean pollution and beachfront contamination. While no responsible arguments were raised against the dumping ban, reasonable appeals were made to delay implementation.

Mayor Edward I. Koch of New York was among the most worried, probably because he has more sludge to get rid of than anyone else. His point, that it would take more than a year or two to develop alternatives to ocean dumping, was well taken, and the concern applies to Westchester County as well.

Under the original proposal, the ban would have gone into effect at the end of 1990. Municipalities faced hefty fines for continued ocean dumping even if they had nowhere else to go.

The danger in imposing an artificially unrealistic deadline was twofold. First, it could be challenged in court, possibly jeopardizing the ban altogether. Second, the fines would divert money needed to find alternatives to ocean dumping.

The compromise, which has been embraced by two key House committees answers those issues.

I postponed the ban until 1993, allowing time for an expeditious quest for alternatives. While the bill does not drop the fines for continued ocean dumping, it requires that any money paid in penalty fees be set aside to research those alternative means of sludge disposal.

No, 1993 is not soon enough. But it is as soon as possible. That, after all, is why it was called a compromise.

Mr. McGRATH. Mr. Speaker, will the gentleman yield?

Mr. SAXTON. I am happy to yield to the gentleman from New York.

Mr. McGRATH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of this legislation.

Mr. Speaker, I want to take this opportunity to express my strong support for H.R. 5430, the Ocean Dumping Act amendments. The situation involving the disposal of the waste generated by the metropolitan New York area is unique. Limited land space has forced the metropolitan area to dump its municipal treatment plants' sewage sludge into the ocean beyond a 105-mile line. This legislation is designed to eliminate sewage sludge ocean dumping and alleviate pollution levels currently found in our Nation's waters.

One option would be to open more land sites. However, the scarcity of available land poses even a larger problem for area resi-

dents to confront. The recent garbage barge incident has become a reflection on the situation of Long Island's refuse problem. While the barge has been the brunt of many cruel jokes, it has made this Nation's citizens aware of the enigma facing many communities where land is scarce.

H.R. 5430 is a realistic approach to combat the sewage sludge problem. Most importantly, the bill bans the dumping of sewage sludge into the ocean after December 31, 1992. In addition, H.R. 5430 creates a Federal trust fund to finance the development and implementation of environmentally sound alternatives to ocean dumping. Trust funds, comprised of fees and penalties imposed on communities that continue to dump sewage sludge in the ocean, could also be used for monitoring and enforcement of the ocean dumping law.

I want to thank the members of the Merchant Marine and Fisheries, and the Public Works and Transportation committees for developing a bipartisan piece of legislation acceptable to the State of New York and the delegation. I urge my colleagues to cast a vote in favor of our oceans and support the passage of H.R. 5430.

Mr. SAXTON. Mr. Speaker, I thank the gentleman from New York [Mr. LENT] for yielding me this time.

Mr. Speaker, we have always shared the common goal of protecting the environment, both landward and seaward, of the beautiful coastline we both share. I believe that we have today come up with a fine and workable mechanism to accomplish that goal.

This bill represents the culmination of countless hours of negotiation and many years of dedicated work, particularly by my friend and colleague from New Jersey, BILL HUGHES, as well as my colleagues on Merchant Marine and Fisheries, CLAUDINE SCHNEIDER, and TOM CARPER, and our Chairman, Mr. JONES.

Many of the residents of my district—and of the districts of many Members here today—grew up, lived full lives, and operated successful businesses, and even retired along the shoreline. The ocean, to them, became a symbol of awesome power and yet a trusted friend. But they have increasingly had to live in fear of that friend. I am proud of the individual and collective efforts of many of my own constituents—Karen Kiss, Cindy Zipf, the Long Island Beach Garden Club, and others—in keeping the pressure on this Congress to act.

We must deliver.

Just hours ago we all witnessed an inspiring return of this Nation's journey into the frontiers of space—man that was exciting! Now we must turn with the same respect to the last frontier here on Earth, our ocean frontier. We must return our coastlines to their former glory.

The bill before us today cannot, on its own, return us to that glory—but it is a clear sign of hope and a first step in that direction. Its passage would signal a significant shift in this Nation's attitude toward responsible waste management.

The respective floor managers have outlined the contents of this bill. I wish simply to add that the bill is well structured to achieve its intended goals—to bring an end to ocean dumping; to provide a mechanism for a local, State, and Federal partnership in reaching that end; and to reassess and strengthen the guidelines by which we judge ocean discharges.

Though the latter is addressed in an important amendment to this bill contributed in subcommittee by Mr. MANTON, it is my hope that the same protections will be afforded our Nation's estuaries—and I will work toward that end in the next Congress.

The Committee had also hoped to include provisions holding dumpers of medical waste responsible for their actions. Though I do not believe there is any controversy over their content, we simply did not have sufficient time to add them—and it is my hope that they will be the subject of discussion in the House/Senate conference.

Mr. Speaker, this bill represents a renewed promise to all coastal residents. Again, we must deliver on that promise. I urge you all to support it.

□ 1630

Mr. JONES of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I am pleased to join my colleagues today in bringing to the floor H.R. 5430, a bill imposing special fees on the ocean disposal of sewage sludge and prohibiting such disposal after December 31, 1992.

This bill is a result of extensive discussions between our Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries. I wish to commend the chairman of our Subcommittee on Water Resources, the gentleman from New York [Mr. NOVAK] for his fine efforts on this bill, and the gentlemen from New Jersey [Mr. ROE and Mr. HUGHES] for their excellent efforts in arriving at the compromise bill. It provides for a combination of measures to force the cessation of the dumping of sewage sludge and industrial waste into the oceans. Ocean dumping after December 31, 1992, is prohibited. Any dumping prior to that date will require a permit from EPA and special dumping fees are imposed starting at $200 a dry ton of sewage sludge or industrial waste in 1989 and escalating to $300 in 1990 and $400 in 1991 and 1992. For any dumping which occurs after December 31, 1992, a penalty of $800 a dry ton is imposed, and each year the dumping continues, this penalty goes up 10 percent plus an additional percent for each year after 1993. Under this scheme, the longer the dumping continues the more costly it becomes.

In order to further ensure that dumping in the ocean ceases, compliance and enforcement agreements are called for which will specify schedules which must be followed to end ocean dumping.

To hasten the conversion to alternatives to ocean dumping, each permittee is to establish a trust account from which funds may be withdrawn with the concurrence of EPA for the identification, development, and implementation of environmentally sound alternatives to ocean dumping. Eighty-five percent of the dumping fees are deposited in these accounts. A percentage of the penalties collected is also deposited in these trust accounts, starting at 90 percent in 1993 and decreasing 5 percent each year thereafter. Fees and penalties not deposited in the accounts are paid to EPA and are available to EPA, NOAA, and the Coast Guard for administration, research, and enforcement associated with the ocean dumping of sewage sludge. Funds not utilized for these purposes are made available to the States of New York and New Jersey, for deposit in their revolving loan funds established pursuant to the Federal Water Pollution Control Act for the purpose of making loans to communities for the construction of sewage treatment facilities. The funds made available can be used for all types of sewage treatment works including correction of combined sewer overflow problems.

The provisions in the bill as agreed to by our two committees constitute a significant step forward in our efforts to achieve and maintain a high degree of water quality in the oceans. These provisions are strong, they are fair, and they will work. This is an extremely important bill and I urge its passage.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Rhode Island [Miss SCHNEIDER].

Miss SCHNEIDER. Mr. Speaker, let me say as we discuss this ocean dumping bill and the thrust of it which says that it shall be unlawful for any person to dump any sewage or industrial waste into ocean waters after December 31, 1992, that it is very clear that this provision is absolute. Anyone who dumps after this date is in violation of the law and will be subject to severe penalties and fines, as my colleagues from the Committee on Government Operations have articulated, but it is important for us to look at the effort to get here, and I commend my friend, the gentleman from New Jersey [Mr. HUGHES], for his tireless effort in assuring that we would reach this point at long last, but I will say that as recently as a year ago everyone was saying this bill would never pass, that Mayor Koch and Senator

D'AMATO, as well as other dumpers and the EPA also insisted that this bill would not survive the legislative process.

Well, I stand here today and say they were all wrong. This onerous practice now will end once and for all, and Congress will be responsible for bringing it to an end.

I would like to say that ocean dumping could stop immediately. However, procedural and technical realities have made that an impossible task. The fishing industry, which has suffered greatly over the past couple of years and which is one of the most important industries in our balance of trade, as we in particular export, have a surplus with Japan of more than $1 billion, and it is very important for our own individual States and community, and the State of Rhode Island itself, having three-quarters of a billion industry in fisheries.

So now as we call for an end to ocean dumping, I believe this is a historic moment because this is an opportunity now for us to once again place attention on the role of our oceans and environment.

Mr. LENT. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT], the minority leader of the Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of H.R. 5430, which amends the Ocean Dumping Act of 1972 to prohibit the dumping of sewage sludge and industrial waste after 1992.

The bill which we bring to the floor today represents a carefully crafted compromise between the two committees with jurisdiction over this issue, the Committees on Merchant Marine and Fisheries and Public Works and Transportation. Perhaps more importantly, the bill represents a compromise between those who want to see an immediate end to ocean dumping and those few remaining municipalities which are seeking ways to end such dumping.

This has not been an easy compromise to forge. The difficulty stems from the high level of commitment on the part of those who want to see an end to ocean dumping of sewage sludge as quickly as posible versus the concern by some that we must give current dumpers enough time to develop environmentally acceptable alternatives to ocean dumping.

Most of the credit for the excellent compromise which we bring to the House goes to the willingness of the leadership of our two committees to strive for a solution that is fair to all parties. I want to express my thanks to Chairman ANDERSON, and to the chairman and ranking Republican of our Water Resources Subcommittee, Mr. NOWAK and Mr. STANGELAND, for their hard work and perseverance.

Certainly, the leadership of the committee on Merchant Marine and Fisheris, in particular Chairman JONES and the ranking member BOB DAVIS, deserves our thanks as well. But I especially want to thank the members of our two committees who are most directly affected, BOB ROE, BILL HUGHES, GUY MOLINARI, TOM MANTON, DEAN GALLO, and EDOLPHUS TOWNS for their hard work and commitment to finding a workable solution.

Mr. Speaker, the solution that we have developed is fair to all points of view. It ensures that the ocean dumping of all sewage sludge and industrial waste will end as quickly as possible. It provides for maximum protection of our precious marine environment while providing the strong incentive and commitment needed for communities that still dispose of wastes in the ocean to find enviornmentally acceptable alternatives.

The compromise we have developed is balanced yet fully protective of the environment. I urge all of my colleagues to support it.

Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. GALLO] be allowed to handle the balance of our time.

The SPEAKER pro tempore (Mr. BENNETT). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today on behalf of people everywhere who care deeply about our common environment to celebrate House passage of the Ocean Dumping Ban Act of 1988.

The dedication of my colleagues on the Merchant Marine and Fisheries Committee and the Public Works and Transportation Committee, in particular New Jersey Representatives JIM SAXTON and WILLIAM HUGHES, as well as our esteemed colleagues from other delegations, especially those individuals from New York, have made this day possible.

This legislation prohibits ocean dumping after December 31, 1992, and imposes penalties for noncompliance. Most of the money collected will be used to develop land-based alternatives to ocean dumping and to cover the costs of enforcement.

As an original cosponsor of this legislation, I believe that this is a reasonable approach that will end an environmentally hazardous practice and protect our oceans for our children and grandchildren. This legislation has been subject to a great deal of review and it reflects the concerns we have without creating a new Federal bureaucracy. It puts teeth in current law by funding enforcement, rather than creating new laws that would be difficult to administer.

After a great deal of discussion, we have come to one unavoidable conclusion. Without the strict deadlines and significant fines and penalties for missing those deadlines contained in this legislation, we will never see an end to this environmentally destructive practice.

Because most of the penalties contained in this bill are held for use in the development of land-based alternatives to ocean dumping, I believe that we have developed a bill that is both tough and fair. This is both a carrot and a stick.

We must avoid the mistakes of the past, when good intentions were negated by court orders and parochial interests became more important than environmental protection.

Our goal is clear. For the first time in the 50 years that we have wrestled with this problem, we are within reach of that goal.

Ongoing negotiations to produce consent agreements with authorities and municipalities on these issues must be based on the clear understanding by the participants in these negotiations that we are not kidding about banning all dumping by a date certain provided in Federal law.

If we weaken our resolve, these negotiations will languish, as they have in the past, and we will be fighting about this for the rest of our lives.

This problem didn't arrive on the scene yesterday and it will never go away if we do not hold everybody's feet to the fire. That is what this bill does and it should move forward on a fast track. I urge my colleagues in the House and Senate to pass this bill for the end of the 100th Congress.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. Mr. Speaker, I rise in support of the bill, H.R. 5430, to cease the ocean dumping of sewage sludge by 1993.

This bill, Mr. Speaker, is a recognition of two factors: first, that from an environmental perspective, ocean dumping of sewage sludge should stop; and second, that there are viable alternatives available for the disposal of sewage sludge.

Congress had previously set a cutoff of 1981 for ocean dumping and some municipalities followed that edict. The city of Philadelphia, for example, set up a 5-year phase-in plan, testing 10 different possible long-term alternatives to ocean dumping; then decide which of the alternatives was feasible and most cost effective. Other municipalities, such as New York City and some in New Jersey, challenged and did not follow Congress' 1981 order. The bill before us is crafted so that there are no options for delay.

While cessation of ocean dumping is imperative, we must also be sure that the specific alternatives chosen are not worse for public health. If you know the city of New York, the option of choice tends to be the cheapest alternative. For this reason, I introduced an amendment in the Water Resources Subcommittee, which is included in this bill, that prohibits the dumping of sewage sludge in any landfill on Staten Island—in particular, the Fresh Kills landfill. During testi-

mony before the Subcommittee on Water Resources, New York City officials said that Fresh Kills would be looked to as an alternative to ocean dumping. Given the current condition and operation of Fresh Kills landfill, the addition of sewage sludge could dramatically increase the health risk already posed by the landfill—not only to Staten Islanders, but to people in New Jersey as well.

A more responsible city administration would have moved to cease ocean dumping long ago. The attitude New York City has shown on disposing of sewage sludge is the same attitude it has shown with solid waste disposal. And I would say, as somewhat of an aside, that while the city of New York might think it has a problem disposing of sewage sludge, it is facing an absolute crisis with regard to solid waste disposal. For 11 years, we have seen no progress made in addressing this problem; and while we now act to accommodate sewage sludge disposal, our city administration is doing an even greater injustice to the city's future by continuing its inaction on solid waste disposal.

Once again, Mr. Speaker, I urge support of the bill.

Mr. Speaker, I pay tribute to the gentleman from New York [Mr. NOWAK] who worked very, very hard on this; the gentleman from New Jersey [Mr. GALLO]; the gentleman from New Jersey [Mr. HUGHES]; and the gentleman from Arkansas [Mr. HAMMERSCHMIDT], who worked together in a bipartisan way for something that has solid teeth in it.

□ 1645

Mr. GALLO. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA] who has been very involved and very supportive in this effort.

Mrs. ROUKEMA. I thank my colleague, the gentleman from New Jersey, Mr. GALLO, and other members of the New Jersey delegation, particularly Mr. HUGHES and Mr. SAXTON, who have been in the forefront on this effort. They have been diligent leaders in this effort. And surely we must not forget the gentlewoman from Rhode Island, Miss CLAUDINE SCHNEIDER, who when first proposing this legislation was told it could not be done but here we are making a major step forward today.

Mr. Speaker, I rise in enthusiastic support of this legislation. My constituents have waited for over a year for this legislation, so for this reason, I commend the Merchant Marine and Public Works Committee for giving the House an opportunity to pass this much-needed bill today. I would be remiss if I did not applaud the sponsors of this measure, Mr. HUGHES, Mr. SAXTON, Mr. GALLO and Ms. SCHNEIDER, for their diligent efforts on behalf of their own and several other east coast States.

Mr. Speaker, the last two summers have proven beyond a shadow of a doubt that it is high time we put a stop to all forms of ocean dumping! Whether it is sludge dumping at the 106 mile site off New Jersey's coast, which this legislation specifically concerns, illegal medical waste dumping, combined sewer overflows, or agricultural runoff, we can no longer afford to use the ocean as a mere cesspool!

My district is not located along the Atlantic Ocean. Nevertheless, all New Jersey people cherish the ocean and their vacations at the New Jersey shore. Let me tell my colleagues, quite frankly, that my constituents are outraged by the assault on the ocean and, after two lost summers, are demanding firm action from this Congress.

This landmark legislation before us would ban the ocean dumping of sewage sludge and industrial waste after December 31, 1992. However, 6 months after enactment, dumping would no longer occur without the imposition of escalating fees. The fees would help accelerate the implementation of safe land-based alternatives to the insidious practice of ocean dumping. If dumping were to occur after 1992, the legislation would hit the dumpers where it hurts most—in their pockets. Clearly, Congress must assess severe civil penalties in order to take the profit out a practice that heretofore has been profitable, at the expense of the economy and the environment. In my estimation, the fees and the penalties give the dumpers ample incentives to get out of the ocean within the timeframe legislation provides.

Let there be no mistake about it: my State will pay its fair share of the price for this legislation. There are six municipal authorities in New Jersey which are presently dumping at the 106 site. However, the leadership in New Jersey stands ready and committed to make the financial sacrifice to protect the ocean for future generations. In fact, the New Jersey State Legislature has already enacted legislation which is even stricter than the legislation we are debating today.

But, to repeat my statement before the Merchant Marine Committee at a hearing on this issue in February, New York, and New Jersey must not point fingers. Together, we should point to a way out! Therefore, it is encouraging that Gov. Mario Cuomo finally agrees with my Governor, Tom Kean, that it is time to end the degradation of the ocean.

Mr. Speaker, the House will pass this legislation today. But, before the session closes, we must move quickly to final enactment of this bill and related measures to crack down on medical waste dumping. Therefore, I would hope that all of my colleagues will join me and the New Jersey congressional delegation in support of this critical effort.

Mr. GALLO. Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Speaker, I rise today in strong support of H.R. 5430, the Ocean Dumping Ban Act of 1988.

I believe that this is the strong yet positive legislation we need to stop municipalities from thinking of the ocean as a convenient sewer.

This summer we saw human waste, medical waste and industrial wastes poision our fisheries, kill marine mammals, and contaminate our shores. We cannot continue along this path. We can no longer assume that our oceans have an infinite capacity to absorb, cleanse or hide whatever wastes and toxins we choose to dump in it.

During the Merchant Marine and Fisheries Committee's consideration of this issue, I supported H.R. 4338, the predecessor to this measure. H.R. 5430 is an improved, tougher bill with greater incentives than its predecessor; and I support it wholeheartedly.

While retaining language to prohibit the ocean dumping of sludge and industrial wastes after 1992, H.R. 5430 mandates fees and penalties to be paid, and trust accounts for individual municipalities, to be used toward the development and implementation of land based disposal alternatives.

I feel H.R. 5430 is judicious in its approach and, I urge my colleagues to support this bill. It will be a good faith effort to clean up our oceans and coastal areas.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER], a longtime advocate of this particular legislation.

Mr. CARPER. I thank the gentleman for yielding time to me.

Mr. Speaker, more than a decade ago, Congress passed legislation they believe would soon end ocean dumping of sewage sludge and chemical wastes. At that time, approximately 100 American cities and 200 companies were using our oceans as their sewer. Many more wished to join them.

Thanks to that legislation adopted in the 1970's, those who wished to join the dumpers never got to do so. Little by little, those who had used the ocean as their sewer for years ended that practice.

Today, fewer than a dozen cities dump their sewage sludge in the ocean.

Today, only one firm still has a permit to dump chemical wastes in the sea. Much has been accomplished, but the job is not yet finished. With the adoption of this bill today, we take a big step forward to end the job that was begun so many years ago.

Today, we write what should be the final chapter of a bitter and at times, divisive struggle.

By the end of this century, 75 percent of our population will live within 50 miles of the coast. The pressure and stress on our coastal waters, already intense, will grow even more with the passage of time. Despite the fact that roughly 100 cities have gotten out of the ocean dumping during the past decade, the hard truth is that those who remain, dump as much sludge today than all the others combined when this decade began.

With the adoption of this bill today, finally we will say enough is enough. We're tired of coastal waters so polluted that it's not safe to eat many of the shellfish that live along our shore. We're tired of dolphins dying by the hundreds and washing up on our shores, and we're tired of bacteria level so high in our coastal waters that on some days it isn't safe for our children and families to swim there.

The compromise before us is not a panacea, nor will it end all of our ocean pollution problems. It is a carefully crafted combination of carrots and sticks that has even won the endorsement of the dumpers themselves. While this bill makes it clear that ocean dumping must cease, it also acknowledges that it won't be easy for some.

A reasonable phaseout period and an escalating fee schedule are incorporated. A trust fund is created to help find safe land-based alternatives, and, more effective use is made of a revolving loan fund to help build the facilities to ease the transition for the dumpers.

I especially want to commend today our leader in this crusade for the past dozen years, Representative BILL HUGHES of New Jersey.

I also want to commend my colleagues—Democrats and Republicans from Chairman WALTER JONES of North Carolina to Representative CLAUDINE SCHNEIDER of Rhode Island—for their efforts in crafting this compromise. And, I want to commend the Public Works and Transportation Committee for taking a very good bill reported out of the Merchant Marine and Fisheries Committee and making it a little better.

I ride home on the train most evenings to Delaware where my wife Martha and I make our home. There are some evenings when I make that ride frustrated and disappointed at the opportunities lost here because of partisan strife, regional differences, and parochial interests. There are also times when I make that trip buoyed by the knowledge that we still can put aside partisanship, our regional differences, and our parochial interests.

This is one such evening, and I salute each of you who have put the interest of our environment, our oceans, and our country ahead—in some cases—of our own interests so that the many creatures that live in the sea and those of us who love the sea can breathe a little easier.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I rise in strong support of the bill.

Mr. Speaker, I rise to voice my strong support for H.R. 5430 and to urge its swift passage.

Mr. Speaker, more than a decade has passed since the U.S. Congress decided to end the dumping of sewage sludge into the oceans off the Northeast; a decision that has since been frustrated by lawsuits and administrative delays. Once again, however, the House has an opportunity to vote on the question, and once again, I urge the House to vote yes; to end the shortsighted and wasteful practice of dumping millions of tons of sludge into our marine environment yearly.

Mr. Speaker, the key question before us is not whether to end ocean dumping, but when: the queston is not if, but now quickly. Our public role and responsibility is to force a waste management strategy that protects renewable resources and the marine environment and that puts our sludges to good use. Current waste disposal practices are driven by short-sighted economics that are blind to environmental impacts. Because nobody owns the oceans, ocean dumping is a cheap buy for those looking for a dump.

Yet our fisheries are placed at risk by an operation about which we are largely ignorant: the site is not adequately monitored and we are—and will be—largely blind to the damage we may be causing.

Why should fishermen and those who live by—and off—the sea bear the risk of error? They should not.

If we fail to act today and in the coming days on this, 8 million tons a year of sewage sludge will continue to overload the oceans off the Northeast. Look at the barren seascape of the old 12 mile site, and ask yourself if we should repeat it again at the 106 site. The answer is "No."

Mr. Speaker, the House has before it an opportunity to close the issue of ocean dumping after more than a decade of effort. H.R. 5430 will force those municipalities that have for too long refused to recognize the obvious that the time has come to end ocean dumping. The bill before us represents a careful blend of incentive and sanction, and I believe it represents a major achievement that deserves our full support.

In closing, I believe that several of our colleagues deserve our praise for their constructive labours, including Congressmen HUGHES and ROE of New Jersey and Congressman NOWAK of New York for their efforts I extend my thanks.

Mr. JONES of North Carolina. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I am an original cosponsor of H.R. 5430. I have worked during the past several months to develop a realistic policy for bringing to an end the ocean disposal of treated municipal sludge and industrial waste. I strongly support this legislation and ask my colleagues to vote in favor of its passage under suspension of the rules.

This measure is a bipartisan, multistate effort to enact an orderly and environmentally sound cessation of the ocean disposal of municipal sewage sludge and industrial waste. H.R. 5430 represents a true compromise which for the first time clearly establishes the policy of the United States with regard to ocean disposal. With the passage of this legislation, the Congress is stating that our marine waters are considered to be too valuable to allow the continued disposal of any wastes which might pose a threat to their health and viability.

Mr. Speaker this is a strong bill. The goal of this legislation is to provide for the cessation of all ocean disposal of sewage sludge and industrial waste at the earliest practicable date and in an environmentally sound manner. To ensure this goal is met, the legislation provides for special disposal fees and substantial civil penalties for those communities who dump their wastes in violation of the provisions of this bill. At the same time, the legislation also provides the necesary resources to aid local communities to facilitate their fulfillment of the mandated requirements to cease ocean disposal. The bill mandates that a certain percentage of the new disposal fees and civil penalties be used by the affected communities to enable them to cease ocean disposal through the construction, implementation, and operation of alternative disposal methods.

Mr. Speaker, it is clear our Nation's estuarine, near coastal and open ocean waters are severely distressed and continuing to receive substantial quantities of pollutants on a daily basis. Events over the past two summers have served dramatically to focus national attention on coastal pollution. I hope this legislation will mark the first of many steps in a renewed awareness and a renewed effort on the part of Congress to develop a multifaceted policy to protect our valuable marine environment.

We must not allow ourselves to be deceived into thinking the passage of this particular piece of legislation will solve the problems of beach wash-ups, dolphin deaths, and high bacterial counts. We must have the foresight and determination to address the many other sources of marine pollution in the next Congress, such as combined sewer overflows and nonpoint sources of pollution.

I am pleased the final version of this legislation which we are considering today has maintained three provisions I was successful in having included in the original bill when it was marked-

up in the Merchant Marine and Fisheries Committee. These provisions address ongoing pollution problems faced by our oceans.

The first provision requires the Environmental Protection Agency to report to Congress early next year on their implementation of section 403 of the Clean Water Act regarding the regulation of pollutant discharges into marine waters. To date, this program has been poorly enforced and undoubtedly allows vast volumes of pollutants to enter our marine environment.

The second provision I offered included industrial dumpers in the ban on ocean disposal. I firmly believe this effort was instrumental in the recent decisions by the two remaining industrial dumpers to cease their ocean disposal practices in the near future.

My third amendment requires the Congress to review the progress of this legislation 4 years after its enactment to determine if this law is accomplishing its goals. The respective committees of jurisdiction would be required to make recommendations on what additional legislative or regulatory actions might be necessary to ensure the goals of this legislation are met.

Mr. Speaker, I commend the distinguished chairman of the Merchant Marine and Fisheries Committee, Mr. JONES of North Carolina, my colleague and good friend from New York, the chairman of the Water Resources Subcommittee, Mr. NOWAK, the chairman of the Public Works and Transportation Committee, Mr. ADNDERSON, the gentlemen from New Jersey, [Mr. HUGHES, Mr. ROE, and Mr. SAXTON, the gentlelady from Rhode Island, Miss SCHNEIDER, the gentleman from Delaware, Mr. CARPER, and the many other Members and their staffs for their untiring efforts to protect our marine environment which has culminated in the development of this important legislation.

The gentleman from New Jersey, Mr. HUGHES, has fought long and hard for well over a decade to ensure our Nation's ocean waters are not used as a common repository for society's wastes. His unwavering belief in the need to guarantee the integrity of our marine waters is one of the reasons we are here today. I appreciate his cooperation in developing this compromise which will serve our mutual goals.

I would especially like to thank the staff of the Merchant Marine Committee—Tom Kitsos, Joan Bondareff, Dan Ashe, and Ed Welch—and the staff of the Public Works Committee—Dick Sullivan, Errol Tyler, and Cathy Evans—for their dedicated and professional work on behalf of this bill.

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume. '

Mr. Speaker, I would like to point out for the RECORD the gentleman from New York [Mr. MANTON], the gentleman just leaving the well, has been a foremost fighter representing his district and his State very well in this movement.

Mr. Speaker, I will conclude by yielding 1½ minutes to the gentleman from New York [Mr. HOCHBRUECKNER].

Mr. HOCHBRUECKNER. I thank the gentleman very much.

Mr. Speaker, I rise as a cosponsor of H.R. 5430, the legislation which will end ocean dumping of sewage sludge. I represent the eastern half of Long Island and I, like many Long Islanders was shocked at the summer of 1988 when many of our beaches were closed. I share the concerns of my colleagues from New Jersey [Mr. HUGHES] in terms of the outrage at having sludge and other floatable wastes wash up on our beautiful beaches along the east coast.

So this is very important legislation. Much work has been done and there is much that is yet to be done in order to solve this overall problem that we share. This bill goes a long way toward helping clean up our beaches and clean up our ocean by banning the dumping of wastes into the ocean.

Certainly the bill which bans the dumping of plastics in the ocean, was developed and passed by the Committee on Merchant Marine and Fisheries and is now law. It is an important element in keeping our beaches clean. The restoration of funding for the Coast Guard in order to see that they can properly enforce existing laws is very important to this nation and to our coasts.

Tomorrow we will be dealing with legislation that will put in place medical waste tracking program which is also important. And my own bill, H.R. 5000, which is the most comprehensive waste reduction bill that concentrates on recycling of garbage, is very important.

The purpose of H.R. 5000 is to reduce the quantity of our waste stream and to change its composition. I believe the combination of all these things is what we need to do as a nation in order to clean up our beaches, clean up our oceans and provide a much cleaner environment for the people of our Nation.

So I would like to recognize the work that was done by the chairman of the committee, the gentleman from North Carolina, Mr. JONES. Clearly the gentleman from New Jersey [Mr. HUGHES], has made a tremendous effort along with the gentleman from Rhode Island, Congresswoman CLAUDINE SCHNEIDER.

I thank you all. We have done good work today and I urge my colleagues to pass this legislation.

Mr. GALLO. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to engage the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES] in a colloquy.

Mr. Chairman, I note that the fees imposed by this legislation would be earmarked, among other things for the development of alternative means of sludge disposal. Would, for example, a project, in which sludge is pelletized aboard a vessel for later safe disposal or recycling, qualify for grant funds under this legislation?

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. LENT. I yield to the chairman of the committee, the gentleman from North Carolina.

Mr. JONES of North Carolina. I thank the gentleman for yielding.

Mr. Speaker, I say to the gentleman the legislation does not provide for direct grants, but does contemplate the possibility that municipalities could use fee-created trust funds for alternative technologies. Construction or development of a facility such as you describe for use as an alternative means of disposing of municipal sludge without discharging pollutants into the water would be the type of alternative to ocean dumping that could be pursued by the permittee. It would, of course, have to be an "environmentally sound" process, under the terms of the bill.

Mr. LENT. I thank the chairman.

Mr. GALLO. Mr. Speaker, I yield this last minute to the gentlewoman from Rhode Island, Miss CLAUDINE SCHNEIDER.

Miss SCHNEIDER. Mr. Speaker, I would like to have a brief colloquy with my colleague, the gentleman from New Jersey, BILL HUGHES.

Mr. Speaker, I would like to just briefly ask the gentleman from New Jersey: I think many of our constituents are concerned that oftentimes we have legal cases where there are loopholes, where things fall through the cracks.

Mr. Speaker, could the gentleman from New Jersey state in an unequivocal way that it will in fact be illegal to dump sewage and industrial waste into the ocean after 1992?

Mr. HUGHES. Mr. Speaker, will the gentlewoman yield?

Miss SCHNEIDER. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentlewoman for yielding.

Mr. Speaker, first let me congratulate the gentlewoman on her tremendous leadership.

Mr. Speaker, I want to say it is the intent of the authors of the legislation to make it unlawful to violate the law to dump beyond December 31, 1992. It would be a violation of the law.

Mr. DOWNEY of New York. Mr. Speaker, will the gentlewoman yield?

Miss SCHNEIDER. I yield to the gentleman from New York.

Mr. DOWNEY of New York. I thank the gentlewoman for yielding.

Mr. Speaker, I want to congratulate the gentlewoman from Rhode Island on her work and also our colleagues here.

I rise in strong support of this legislation. If there is one thing only that people feel strongly about it is the ending of ocean dumping in as timely a manner as is possible. I congratulate the gentlewoman on her work.

Mr. STANGELAND. Mr. Speaker, I rise in support of H.R. 5430, a bill to prohibit ocean dumping or sewage sludge and industrial waste.

First, let me congratulate the key players and committees who made this legislation possible. Chairman GLENN ANDERSON, ranking minority member, JOHN PAUL HAMMERSCHMIDT, subcommittee chairman HENRY NOWAK, and other members of the House Public Works and Transportation Committee have been very helpful. Congressmen BOB ROE, GUY MOLINARI, DEAN GALLO, and EDOLPHUS TOWNS have also played crucial roles in forging this compromise. And, of course, let me thank the leadership of the Merchant Marine and Fisheries Committee, particularly the bill's chief sponsor, Congressman BILL HUGHES, for their hard work and cooperation.

H.R. 5430 embodies a compromise hammered out among the Public Works and Merchant Marine Committees, the New York and New Jersey congressional delegations, and municipal, industrial, and environmental interests. In light of the strong public sentiment and the growing consensus to stop ocean dumping, we have retained all the major features in the committee-reported bills involving deadlines and prohibitions.

We have also resolved the differences between the Merchant Marine Committee's bill and the Public Works Committee's bill. The compromise adopts the Public Works Committee's provisions regarding, among other things, EPA's discretion to waive special permit fees, the ban on disposal at Staten Island's landfills, and my amendment regarding "environmentally sound" alternatives.

The amendment I offered to the bill reported by the Committee on Public Works and Transportation focuses primarily on the original bill's reference to "land-based alternatives." My amendment is intended to avoid placing inappropriate limits, either too loose or too stringent, on the alternatives which may be considered to the direct ocean dumping of sewage sludge.

Our concern was twofold. First, we did not wish to see unsound ocean disposal give way to equally indefensible land disposal practices. For example, uncontrolled dumping of inadequately pretreated sludge in an unlined, low-technology landfill would be a dubious improvement over ocean dumping of sludge as practiced by New York area municipalities.

Second, we did not wish to see sludge management approaches foreclosed from consideration simply because they did not happen to be "land-based." Although no such proposals are formally pending before EPA, we know of at least two sea-based technologies, which do not involve dumping, but which under the original version of H.R. 4338, as reported by the Merchant Marine and Fisheries Committee would be precluded from consideration as sludge management alternatives.

One is shipboard incineration of sewage sludge in conjunction with nonhazardous municipal solid waste at a suitable offshore site designated by EPA. The other is the subseabed injection of concentrated sludge into tight geologic formations.

In both cases, that is, pursuing unsound disposal on land and foreclosing potentially desirable non-dumping options at sea, it seemed more important to ensure that a sludge management alternative to replace ocean dumping was "environmentally sound" than merely to require that it be "land-based."

The term "environmentally sound" is meant primarily to convey the concept that there is a "hierarchy" of waste management options which is equally applicable to all disposal media. This widely accepted "waste management hierarchy" encompasses the full array of waste management approaches on a descending scale of environmental acceptability or soundness. The most preferred tiers of the hierarchy include waste minimization, source reduction, resource recovery/recycling, and energy recovery. Intermediate on the scale are such techniques as waste treatment, waste destruction, isolation/containment, and perpetual storage.

Finally, the least favored options, which constitute the lowest rung on the waste management hierarchy, are dilution/dispersal and disposal practices.

A major objective of my amendment was to discourage sludge dumping municipalities from shifting from dumping at sea unsound dumping on land.

It should be emphasized, however, that the directive to implement "environmentally sound" alternatives cannot in any way be construed as an excuse for continued ocean dumping beyond the deadlines specified in the bill. If, for example, a municipality can only meet the bill's deadlines by temporarily placing sludge in a municipal landfill pending the completion of environmentally preferable longer term alternatives, this would not be precluded by my amendments.

The compromise also adopts a modified version of the Public Work's provisions on industrial waste. This addresses the disposal of hydrochloric acid, which if uncontaminated by other wastes, apparently turns into table salt upon contact with marine waters.

We have also agreed to modify the provisions in the Merchant Marine and Fisheries' bill regarding ocean discharge criteria requirements in section 403(c) of the Clean Water Act. The Public Works Committee is the committee with jurisdiction over the Clean Water Act. We recognize a serious problem may exist with the implementation of section 403(c). Therefore, we have agreed to look at the problem closely and to require EPA to include a report in its fiscal year 1990 budget request.

The compromise also includes new provisions on availability and use of the State revolving loan funds established in title VI of the Clean Water Act by the Water Quality Act of 1987. The Public Works Committee, which is the committee with jurisdiction over the Clean Water Act, believes title VI capitalization grants have a role to play in developing environmentally sound alternatives to ocean dumping. Unused fees and penalties collected under this act are also to be used for capitalization grants to New York and New Jersey's revolving loan funds.

Mr. Speaker, this legislation presents a timely response to growing concerns about our coastal and marine environments. It mandates an end to ocean dumping of sewage sludge. At the same time, though, it recognizes the Nation's emerging waste management crisis by not precluding other disposal options.

For all of these reasons, I urge my colleagues to support H.R. 5430.

Mr. DE LUGO. Mr. Speaker, I commend my friends, the gentlemen from North Carolina and New Jersey for bringing this important bill to the floor of the House.

I would also like to thank them for their kind consideration in resolving my concerns with the original language on ocean discharge and for making clear that section 5 of the bill calls for a report and implementation schedule with respect only to those discharges which are required to comply with the ocean discharge criteria promulgated by the EPA under section 403(c) of the Federal Water Pollution Control Act. The bill's section-by-section analysis for section 5—which the committee staff developed, in part, at the request of and with input from my office—makes clear the committee's intent that the required report and compliance schedule should not even make reference to discharges which are exempt under current law from compliance with the requirements of section 403.

Again, I appreciate the consideration of my colleagues and commend them for their efforts on this important legislation.

□ 1700

The SPEAKER pro tempore (Mr. MONTGOMERY). All time has expired.

The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 5430.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

A QUESTION OF PERSONAL PRIVILEGE—NEWSPAPER ACCOUNTS RELATING TO REPRESENTATIVE SWINDALL

Mr. SWINDALL. Mr. Speaker, I rise to make a point of personal privilege.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair has examined the press accounts mentioned ear-

lier by the gentleman from Georgia [Mr. SWINDALL] and recognizes the gentleman on a question of personal privilege.

Mr. SWINDALL. Mr. Speaker, first of all, I thank my colleagues for accommodating me on this very important point.

I rise today because of a front page headline that appeared in the Atlanta Journal Constitution, Saturday's paper, quote: "Swindall Aides Called To Testify."

This is just the latest in a series of front page stories that have printed various leaks of grand jury testimony regarding a grand jury that apparently has been recently reconvened in Atlanta roughly 36 days before the November 8 election.

I would like to read at this point a letter that I am sending by hand to the Attorney General of the United States, the Honorable Dick Thornburgh. The text of the letter is as follows:

It is with deep personal regret that I make the unprecedented request to be indicted immediately on all charges that may be under consideration by a Federal Grand Jury recently re-convened in the Northern District of Georgia.

Simple justice and fairness demand that I be allowed to prove my innocence in a court of law rather than in the media. Simple justice and fairness also demand that I be allowed to prove my innocence before rather than after the November 8 election.

Ordinarily every citizen, including every public official is entitled to a presumption of innocence and a trial by jury rather than a trial on the front page of a hostile newspaper.

The injustices recently suffered by former Secretary of Labor, Ray Donovan, and by me as a result of countless leaks of grand jury evidence, including heavily edited excerpts from tapes presumably made as part of an IRS sting operation that ended more than a year ago, serve as stark and shameful evidence that these rights no longer exist for public officials.

Until last week I thought I could successfully defend myself against charges made by unnamed "federal sources", but the most recent press accounts stating that this Grand Jury has now re-convened just 36 days before the November 8 election preclude my continuing to stand by while I'm tried in a forum where I can not adequately defend myself.

While a "not guilty" verdict can never repair all of the damages I've already sustained, it will at least stop future damages from occurring.

I stand ready, willing and able to go to trial on the day following the indictment which I now request.

My family, my constituents, and the thousands of Americans who have made the ultimate sacrifice to protect these fundamental constitutional rights deserve nothing less.

Respectfully, Pat Swindall, Member of Congress.

Mr. Speaker, by way of further explanation, I would like to say that this is not the first time this has occurred. On June 18, the Atlanta Journal Constitution printed excerpts of leaked tapes that resulted apparently from a sting operation that ended about a year ago. Counted in those excerpts were over 200 editorial deletions and admissions. At this time I would like to offer for the RECORD just a handful of some of the more obvious deletions.

For example, one of the excerpts that was printed in the paper read as follows:

As I mentioned to you the last time we met * * * (indicating an omission) I would love to be able to tell you that the money has no connection with drugs * * * cannot do that.

That was a quote apparently from a tape where an IRS undercover agent made that statement reportedly to me. Here is what the statement actually said if you read the tapes in their entirety from the transcript:

As I mentioned to you the last time we met, the money is actually generated here in the United States. Now as I told you I do not partake of drug deals. I would love to be able to tell you that the money has no connection with drugs and I understand that that is something that concerns you and that you cannot do that.

Needless to say, Mr. Speaker, that is a substantial change. The difficulty presented to me and others who find themselves in the posture of being tried on the front page of a newspaper and on the 6 o'clock news is that we are in a forum where we simply cannot fight back and we are not afforded the basic protections that any individual citizen would have in a court of law, including the right to have all the evidence presented in context.

Mr. Speaker, if someone were to stand outside my home today with a gun and threaten the lives of my wife and my children, needless to say, I would go out and I would do whatever I could, including risking bodily harm and risking my life, to stop it. What is happening in Atlanta today, what has happened to Mayor Andrew Young last year, what has happened to the Coca-Cola Co., and what has happened to Georgia Power is a pattern of seeing individuals being tried by innuendo and leaks.

That has got to stop, and the only way I know to stop it is for me to throw myself on the mercy of the court and say, "I waive my rights, and I want an immediate trial." I will try the case myself; I will walk into the courtroom with a simple yellow pad, and I will prove my innocence in a forum where I can prove it.

In closing, Mr. Speaker, I can say that if there is any semblance of justice left, if there is any semblance of the constitutional protections that guarantee us the right of a presumption of innocence and a right to a trial by jury where we can face our accusers and have the evidence fairly presented, then the Attorney General owes it to me to immediately demand that the U.S. attorney in Atlanta indict me tomorrow and put me on trial on Monday in Atlanta. I will be there, and I would hope that the Attorney General would agree that simple justice and fairness requires nothing else.

Mr. Speaker, I thank the Chair, I thank my colleagues.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5430, the bill previously considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2642, COLORADO UTE INDIAN WATER RIGHTS SETTLEMENT ACT OF 1988

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 550 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 550

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2642) to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and rank minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular affairs now printed in the bill, as modified by the amendment in section 2 of this resolution, as an original bill for the purpose of amendment under the five-minute rule, and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the Committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. On page 9, line 13, of H.R. 2642, as reported, after "Act" strike "and shall be repaid in 30 equal annual installments from the date that the water if first available for use".

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, I yield the customary 30 minutes, for the purposes of debate only, to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 550 is an open rule providing for the consideration of the bill H.R. 2642, Colorado Ute Indian Water Rights Settlement Act of 1988. The rule provides for one hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

The rule makes in order the Interior and Insular Affairs Committee amendment in the nature of a substitute as modified by the amendment in section 2 of this resolution as original text to be considered by sections, with each section considered as read.

The resolution does not contain any waivers.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, I want to commend the gentleman from Colorado for his efforts on this bill and for his efforts on behalf of the Ute Mountain Ute Tribe and Southern Ute Tribe.

The tribes have been struggling for an equal opportunity to enjoy the water which they have graciously shared with their non-Indian neighbors for 120 years.

My colleague from Colorado, and the tribes have chosen to negotiate, not litigate their outstanding water rights. With their cooperation we have been able to reach a compromise satisfactory to their neighbors, the States involved and the U.S. Government.

This legislation will fulfill a long awaited commitment to the Indian people of southern Colorado and northern New Mexico.

These Indian people have waited a long time to secure the water rights they need to help them begin to realize their social and economic independence.

I urge the House to join me in adopting House Resolution 550 so that we may proceed with passage of this legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the bill made in order by this rule implements the settlement of Colorado Ute Indian water rights claims in southwest Colorado.

According to the testimony received in the Rules Committee, this agreement is satisfactory both to the parties to the agreement in Colorado, and also to interested parties in the surrounding States. Both sides of the aisle were represented in the Rules Committee hearing.

Mr. Speaker, I should note that the administration opposes enactment of H.R. 2642 because the bill does not require 30-year, straightline amortization of the Federal irrigation assistance costs of the project.

Mr. Speaker, the rule before us is an open rule which permits the House to make changes in the bill if it wishes. There are no waivers of the Budget Act or the House rules included. Therefore, Mr. Speaker, I will support this rule so that the House may proceed to consider the Colorado Ute Indian Water Rights Settlement Act.

Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair wishes to supplement his statement of earlier today on postpone votes:

Pursuant to the provisions of clause 5 of rule 1, the Chair has announced that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote of the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule 15.

The first 10 postponed rollcall votes will be taken after consideration today of H.R. 2642.

Any other suspension votes, whether demanded prior to consideration of H.R. 2642 or later in the day as the House proceeds to further suspensions, will be postponed until tomorrow or Wednesday pursuant to the Chair's subsequent announcement.

□ 1715

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman will state it.

Mr. WALKER. Regarding the Chair's announcement, could the Chair tell us when tomorrow those votes will be taken? Will they be taken at the end of the day, after other suspensions have been taken care of, or at the beginning of the day? Just when might we expect those votes?

The SPEAKER pro tempore. The Chair could not answer that at this time, and, as soon as the decision is made, the gentleman will be informed.

Mr. WALKER. I thank the Chair.

COLORADO UTE INDIAN WATER RIGHTS SETTLEMENT ACT OF 1988

The SPEAKER pro tempore. Pursuant to House Resolution 550 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2642.

□ 1716

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2642) to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes, with Mr. HUGHES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Arizona [Mr. UDALL] will be recognized for 30 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 30 minutes.

The Chair recognizes the distinguished gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I come to the floor this afternoon in support of H.R. 2642, the Colorado Ute Indian Water Rights Settlement Act of 1988.

This bill will ratify and implement an agreement entered into by the Ute Mountain Ute and the Southern Ute Indian Tribes of Colorado with the United States, the State of Colorado and other participating parties. That agreement settles the claims of these two tribes to the use of water based upon the so-called Winters doctrine.

I have long urged Indian tribes to try to negotiate agreements settling their water claims rather than engage in expensive, lengthy, divisive litigation. I have urged the parties on the other side to do likewise.

The parties in this case have done just that and, from that standpoint, I support enactment of this bill.

In large part, this settlement is dependent upon the construction of the Animas-La Plata irrigation project, a participating project under the Colorado River Storage Project Act. While questions have been raised about the viability of this project and its environmental impact, I have weighed the competing interests, including its benefits in settling the Indians' water claims, and have concluded that this bill is worthy of passage.

Mr. Chairman, I support passage of this bill.

Mr. Chairman, I want to commend all of those who have worked to get us

to this day on the floor, and I particularly want to commend the gentleman from Colorado [Mr. CAMPBELL] without whose tedious and unbelievably detailed work this bill would still be buried in the back bedroom or storage room of the Committee on Interior and Insular Affairs.

Mr. Chairman, I yield 5 minutes to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, before I make my statement, I yield to my distinguished colleague, the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, the bill we are considering today is an important one. It deals with one of the most difficult and longstanding problems in our Nation—keeping our commitment to native Americans. Before you is an opportunity to respond to the interests and needs of two tribes—the Ute Mountain and Southern Ute Tribes—who seek the ability to claim the water that is their right, but who wish to do so in harmony and cooperation with their non-Indian neighbors.

I have had the pleasure of visiting southwestern Colorado and meeting with the two tribal councils. I have personally witnessed the arid lands and the people who will benefit from the Animas-La Plata project. This is not just a Western water project: It is an opportunity to restore dignity and the heritage of our native Americans in a manner that is in peace with their non-Indian neighbors.

This body must, at all reasonable costs, seek to foster this cooperative and most beneficial proposal.

Let me emphasize that I am extremely impressed by the willingness of the State of Colorado and the non-Indian water users to enter into a most equitable costsharing agreement that ensures their upfront financial participation in the construction of the project, and also includes repayment of operating and maintenance costs. This very real financial commitment demonstrates the cooperation between the tribes and their non-Indian neighbors on an issue which might have been very divisive.

I strongly urge your support of this bill.

Mr. CAMPBELL. Mr. Chairman, all the Members of this body know that people bring their problems to Congress and say "solve them." In the case of the Colorado Ute Indian Water Rights Settlement Act, the people in Colorado and New Mexico have come to Congress and said "Here's a solution to a problem, please let us resolve it."

Colorado Ute Indian Water Rights Final Settlement Agreement of December 10, 1986, was entered into by the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the United States, the State of Colorado, and 10 other entities representing water users. It is the culmination of 2 years of intensive negotiations.

The reserved water rights claims of the two tribes would have disrupted the established economy of the non-Indian water users in southwestern Colorado had they been litigated. Instead, a lasting and equitable settlement of the tribes' claims which harmonizes with non-Indian interests has been achieved through compromise and accommodation.

Federal legislation is required to implement selected provisions of the agreement. That is why I introduced H.R. 2642.

The Final Settlement Agreement with the tribes came about because the United States filed applications for reserved water rights for the tribes in 1976 in Colorado District Court.

The two Ute Indian Tribes water rights claims cover more than 25 rivers and streams in southwest Colorado. Among those rivers and streams are the Animas and La Plata Rivers. The tribes' claims also extend to the east of the main city in the area, in the case of the Southern Ute Tribe and to the west in the case of the Ute Mountain Tribe. Water users on other streams, such as the Mancos River, are similarly jeopardized by the tribal claims.

In essence, what the parties have done is agree on the decree, which they will ask the Colorado court to enter. The decree will qualify water rights for the tribes and define the terms and conditions of their use and administering to avoid litigating these issues.

The agreement provides a comprehensive settlement of the Tribes' claims for water which will enable the economic development of their reservations. It has several major components:

First, the tribes will receive water from the Animas-La Plata and Dolores projects and additional rights to water from various streams which pass through their reservations.

Second, in exchange for these water rights, the tribes will waive all of their reserved rights claims and any claims which they may have against the United States for breach of trust in the United States' capacity as the tribes' trustee.

Third, $60.5 million will be placed in development funds for the tribes to enable them to develop their water resources and to otherwise make their reservations the tribal development funds.

The settlement of tribes water rights claims cannot be accomplished without the construction of the Animas-La Plata project. The people who have been engaged in the efforts to resolve the tribes claims have been unable to identify any feasible settlement without the project. The two Ute Tribes are convinced that the present settlement, with its reliance on construction of the project, is the only viable option for a negotiated settlement.

A study published in 1984 by an economist with Fort Lewis College, CO, estimated that if the tribes were to litigate their water rights claims, the surrounding non-Indian communities would suffer substantial economic injury. Land values in the area would decline by over $9 million, and the property tax base would erode. The study also suggested the farming community would suffer an annual loss of over $2.5 million per year.

Under these circumstances, the keystone of the settlement is the construction of the Dolores and Animas-La Plata projects to provide an augmented water supply so that existing non-Indian uses can be preserved and future tribal needs met. The two projects provide a reliable water supply, and will provide the cushion which helped all parties reaching a settlement on all the streams subject to the litigation.

The checkerboard nature of the Southern Ute Indian Reservation, however, makes it virtually impossible to be economically self-sufficient.

Fifth, non-Federal parties will contribute money to the settlement for: The financing of the Animas-La Plata project, and the tribal development funds.

The financial aspects of the settlement are complex and rely upon a significant non-Federal commitment to the tribes. The non-Federal financial contributions to the settlement take two forms: First, upfront financing for the Animas-La Plata project, which will provide a sizeable portion of the tribes' water; and second, payments by the State of Colorado to tribal development funds.

Federal budgetary outlays for the Animas-La Plata project have been reduced by 39 percent. This reduction was accomplished through cash contributions by the non-Federal parties in the amount of $68 million toward the construction of the first phase of the project, and because the non-Federal parties are assuming the responsibility for the $133 million needed to construct the second phase of the project.

The State of Colorado is also providing $11 million of the $60.5 million Tribal Development Fund. The first $6 million of this will be provided for the construction by the State of a pipeline which will deliver the Ute Mountain Ute Tribe's domestic water supply from the Dolores project to its reservation. This is critical because the Ute Mountain Tribe must truck water in daily to meet the needs of its 1,400 members. The remaining $5 million will be paid in cash to design a project which would serve only Indian lands of that reservation. Moreover, a substantial amount of non-Indian land is

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located between the lands of the Ute Mountain Tribe and those of the Southern Ute Indian Tribe.

Given these geographic facts, it is not surprising that various studies conducted for the tribes have not revealed any method to deliver water to them and maintain non-Indian supplies that is more efficient than the Animas-La Plata project.

In conclusion, the tribal claims cannot be settled without providing additional water supplies to the area. As a result, it is a critical part of the settlement.

Unfortunately, several parties are now arguing that this project will have adverse environmental impacts. I believe this settlement recognizes those concerns because the project, which is an off-channel storage reservoir, was designed to be the least environmentally damaging. The Animas project will not dam or inundate any stream flows in the Animas River during the spring runoff months when water is pumped from the river to a natural basin. There will also be minimum flow bypasses at the pumping plant in order to protect the fishery in the Animas River.

Some environmental groups feel the project is too power intensive and wasteful because of the pumping required to lift water into Ridges Basin Reservoir. They raise the argument that the project is power intensive. May be true, but the argument that the project utilizes an off-channel reservoir in order to avoid the negative impacts of damming the Animas River upstream of Durango and having a gravity flow system. That was the tradeoff for not damming the Animas River Canyon, as was originally contemplated.

The pumping plant will be built within the city limits of Durango, CO, near the parking lot of a warehouse. If you walked about 800 yards up a slope from the parking lot, you would be standing in a natural, treeless basin criss-crossed with dirt roads. The area has never been managed as a wildlife habitat, or used for any purpose. On the contrary, for the last 20 years it has been reserved for use as a storage reservoir.

Once completed, the State of Colorado will manage the Ridges Basin area as a recreation area and as a wildlife management area.

Accusations about salinity are also exaggerated. While it may be true that Colorado is behind on its salinity control program, it is behind because there has been little commitment to fund the salinity control projects which Congress authorized. Each year, I must go to the Appropriations Committee to request additional funding to ensure Western States do not fall further behind in their efforts to supply clean water to their neighbors.

My friends must also know that any water project, from a small agricultural diversion on private property to a Federal reclamation project, increases salinity in the river. It is an unavoidable consequence of water development.

The Animas River is not one of the last free flowing rivers in the West. The stretch of the Animas River we are discussing here runs directly through the city of Durango, CO. Most of the river runs adjacent to private lands. Farmers and ranchers throughout the area draw upon it daily, which is exactly why this bill must be passed.

Any argument that this project will harm the rafting industry in the area is not viable, because the river is not a premier white water experience, but rather a half day, take-the-family sort of mild river float. The Bureau of Reclamation and the sponsoring water districts are attempting to negotiate a contractual agreement on the release of water into the river from the reservoir to preserve adequate flows to support the existing rafting industry.

All environmental laws, the National Environmental Policy Act [NEPA] and the Endangered Species Act have been complied with. Adverse impacts will be mitigated pursuant to section 8 of the Colorado River Storage Projects Act.

Since the introduction of the bill, all the controversy surrounding this bill has been focused on one issue: whether the Law of the River allows the out-of-state leasing of Colorado River water by Indian tribes or if the tribes should be specifically prohibited from leasing in this bill.

I am glad to say that all seven of the Colorado River Basin States have come to an agreement on legislative language that will protect their interests. At the appropriate time, I will offer an amendmemt and an explanation of the leasing controversy and how my amendments will resolve the controversy.

The most outstanding feature of the project is its ability to resolve the differences of many different constituencies in a peaceful, cooperative manner.

Settlement implementation by Congress will mean water supplies for the tribes as well as the non-Indian water users. Lengthy and expensive litigation will surely result in the drying up of non-Indian lands in southwestern Colorado and northern New Mexico.

Without a true commitment to provide water to reservations that were promised water 120 years ago, the tribes of southwestern Colorado and northern New Mexico would not be a party to this agreement.

I hope you will join me in voting to pass this important bill.

Mr. RHODES. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I rise in opposition to this measure. I have a number of concerns about the Animas La Plata agreement—not the least of which is its half-a-billion-dollar price tag and that's just for construction. I will speak only to a concern that is of particular interest to farmers in Wisconsin, and in other States where farmers pay the full costs of production of their crops.

I have long supported legislation to require farmers who grow surplus crops on federally irrigated lands to pay the full cost of the water they receive. For Animas La Plata, such a requirement would make producing surplus crops ridiculous. It will cost $5,800 an acre to provide water to the land that will be irrigated after completion of this project.

Moreover, it's expected that the land will be used to produce crops that are already in surplus. It is simply wrong to ask the taxpayers to invest this kind of money in a project that will only cost them more money when the new crops go in. I am opposed to the contradictory policy of paying farmers not to grow crops on the one hand and building irrigation projects to bring more land into production on the other hand.

There will be times in the 101st Congress to address this and other problems in the bill. For this reason, I urge my colleagues to vote "no" on H.R. 2642.

Mr. UDALL. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. MILLER], the ranking member of our committee.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to H.R. 2646.

This bill, and the Indian water rights settlement it approves, are both seriously flawed. Despite the hard work and sincere intentions of everyone who helped put this package together, the bill will not accomplish what its proponents claim it will.

First, let's be honest about what we are buying if this bill is enacted. Are we really buying an Indian water rights settlement?

Although H.R. 2642 has long been characterized as an "Indian water rights settlement bill," it is well known that implementation of the settlement is totally dependent on completion of the Animas-La Plata water project.

We are buying a Bureau of Reclamation water project. Not just your ordinary, run-of-the-mill water project. We are buying a water project that will make Rube Goldberg look like he did his training at M.I.T. It will make Reddy Kilowatt do cartwheels in celebration of all the electricity this project will consume.

And perhaps most importantly, we are buying a water project that will benefit non-Indian alfalfa farmers

much more than it will ever benefit the Ute Mountain Utes and the Southern Utes.

I believe this bill is flawed because it forces the American taxpayer to settle legitimate Indian water rights claims by bootstrapping construction of a $600 million water project that will primarily benefit non-Indians—a water project that is ill-conceived, overdesigned, wasteful of energy, and environmentally destructive.

I have no quarrel with the water rights claims of the two tribes. I am concerned, however, that non-Indian supporters of the Animas-La Plata project, knowing their project was in trouble because of congressional and environmental opposition, sold the tribes on the idea of using the project as a way to settle their claims.

For the non-Indian beneficiaries of the Animas-La Plata project, it's a great deal. They put their project on the back of an Indian settlement. It is a no-cost way to ensure construction, and to make sure somebody else pays the bill.

But the taxpayers—and perhaps even the tribes—will be the losers.

Here are some of the problems we are buying if we pass H.R. 2642 and build this project.

First. Even though the so-called cost-sharing agreement splits the project into two phases, with the State of Colorado responsible for construction of phase II, the Bureau of Reclamation's authority to build phase II remains on the books. I'm sure you can guess who will be asked to bail out the State and build phase II sometime in the future?

Second. The environmental problems this project will cause are classics:

It is a huge user of electric energy. Water for the main storage reservoir must be pumped over 500 feet uphill, and then more pumping is required to get the water, under pressure, to irrigable lands. Yearly project pumping power requirements total 135 million kilowatt hours.

The main project dam and reservoir will destroy important elk and mule deer habitat.

Irrigation water will be used primarily as a supplemental water supply to enable mostly non-Indians to grow relatively low-value crops, such as alfalfa, at high elevations.

Project diversions from the Animas River will severely impair—maybe eliminate—a fast-growing whitewater rafting industry, worth millions of dollars each year to the local economy.

Third. Operation and maintenance costs of this project will be so high that many non-Indian farmers won't be able to afford the water. High pumping costs and the fancy, buried pipe, pressurized distribution system are to blame.

Fourth. This bill perpetuates the worst of the repayment myths associated with reclamation projects. It allows power users to subsidize irrigation costs and delay repayment to the Treasury for many years to come. A provision which would have tightened the repayment process has now been stripped from the bill. The taxpayer is once again the loser.

Any one of the major problem categories I have described should be enough to make us question the wisdom of proceeding with this project and H.R. 2642. Taken together, the evidence against this bill is overwhelming.

I would also like to point out for my colleagues on the other side that the administration has stated it is opposed to the substitute.

Mr. Chairman, I am prepared to assist my colleague, Mr. Campbell, in finding a permanent, reliable, and equitable solution to the water rights claims of these two tribes. But I cannot support the solution contemplated in H.R. 2642, for the many reasons I have described.

I urge my colleagues to join me in voting to defeat this bill.

□ 1730

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I am delighted to yield to the gentleman from Colorado.

Mr. CAMPBELL. Mr. Chairman, I would like to say that my friend, the gentleman from California, brings up some important points. It is interesting to me that the gentleman knows so much about that project, since he was invited to come out and visit a couple times, but to my knowledge, have never even been there to see it.

Be that as it may, I am sure the gentleman is basing his judgment on a lot of material the gentleman has gotten from a variety of people.

Let me tell the gentleman something. If my friend, the gentleman from California, had 1,400 people in his district who without drinking water, with the gentleman's record for human rights, his very outstanding record for helping people that are down and out that need help, I think the gentleman might have a different opinion.

Mr. MILLER of California. Mr. Chairman, let me take back my time. It is my time.

Let me say to the gentleman that we have settled these Indian water rights in other fashions in other areas to bring in a drinking water supply and safe and healthy water without having to piggyback it on the back of a project that did not have an adequate supply.

Mr. RHODES. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Chairman, I rise today in support of H.R. 2642.

There are a variety of reasons why I should be supporting it, but I think you just heard a good one expressed by my colleague, the gentleman from California, a minute ago, and the argument goes like this: Oppose H.R. 2642 because we have ours and we do not want them to have theirs. Now, that is the fundamental argument that we heard just a few minutes ago.

The bottom line of this legislation is the result of long-term negotiations that finally have culminated in what we believe to be balanced legislation to solve the problem.

We could have seen this issue in court. It did not go to court. The reason it did not go to court is because the Ute tribes in Colorado and the United States agreed they would attempt to negotiate and arrive at a solution, and the solution we believe today is embodied in H.R. 2642.

I come from a State that is wealthy today and in large part it is wealthy because of reclamation projects, and I surely understand that most people east of the Mississippi do not appreciate the phenomenal value of reclamation projects and the abundance that they have brought to the American consumer in cheap food and a variety of products.

What we see here today and what we have struggled for in the West for a good many years is to try to bring a solution to the age old question of whose water is whose, and in the case of the Indians a long time ago we decided that most of the water was not theirs. It was all ours.

Now in the last decade most everyone has worked very hard to try to arrive at equitable and balanced solutions to theirs and our, because that is what we are charged with here.

H.R. 2642, in my opinion, brings about that solution. It basically says that there is water, there is adequate water if it is properly balanced in a program that we believe is devised in H.R. 2642. To suggest it is perfect is not perfect. To suggest that it is balanced is true.

The CHAIRMAN. The time of the gentleman from Idaho has expired.

Mr. UDALL. Mr. Chairman, I yield 2 additional minutes to the gentleman from our side.

Mr. CRAIG. Mr. Chairman, I thank my colleague for yielding this time to me, and I yield to my colleague, the gentleman from Colorado, who a few moments ago was attempting to make a couple points.

Mr. CAMPBELL. Mr. Chairman, I appreciate this time from my colleague, the gentleman from Idaho, and I appreciate his support of this bill.

Coming from the West as I do, we are very well aware of what we face in some areas where we store up to 261

percent of our yearly needs and still worry about whether we are going to have enough.

It did concern me about some of the comments that have already been made by my colleague, the gentleman from California.

This is not just an Indian bill. I think that is what we are confusing. This is a bill really that is going to help 2 states resolve problems with Indian tribes who have very early priority rights and very clearly could go to court and go through litigation and get that water. What we have tried to do is acknowledge that they do have a very early right, and the question is do we want to really let it go to court and end up fighting and spending millions of dollars of taxpayers money, maybe more than what we are actually going to build the project with, or do we want to settle it in some kind of good fellowship and try to share the water we have, That is the conclusion we have come to.

If this project does not get built, we stand to have over a hundred ranchers lose their homes, lose their farms, when we take the water off that to supply water to the Indian claims.

Who is going to be the recipient of those losses? The old U.S. taxpayer again, because there is no question everyone who losts his farm is also going to sue the Federal Government.

I would just ask my colleagues when they vote on this to think of the concerns they would have if families in their areas had no drinking water, if the communities in their areas could not develop because of lack of water. I would ask them to apply the same kind of concerns on a nationwide basis and support this bill.

Mr. CRAIG. Mr. Chairman, I thank my colleague, the gentleman from Colorado for those remarks.

One of the misconceptions in the West is that there is no more water. There is an abundance of water if it is properly stored and properly managed.

Here is what we are suggesting with this legislation, that we develop the capacity to utilize that which we have so that all can share and that we develop a balanced program.

Mr. RHODES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2642, the Colorado Ute Indian Water Rights Settlement Act.

Negotiated settlements provide a cost-effective method for resolving complex issues. Indian water rights are among the most complex legal issues in the West, and uncertainty of case law causes economic and social hardship on both the Indian and non-Indian communities affected by these water claims. The parties are to be commended for reaching this settlement among themselves, and finally with the other States of the Colorado River Basin.

Over the past weeks representatives from the lower basin States of Arizona, California, and Nevada have met with the Colorado parties, and with Members and staff of the appropriate House and Senate committees. The result is the final settlement as represented in the amendment to be offered by gentleman from Colorado. I strongly support that compromise, but I note that my support is for this particular settlement alone; and it does not set a precedent for future negotiated settlements.

In Arizona we have wrestled with these same water rights issues; fortunately for Arizona our settlements have been intrastate instead of interstate.

Earlier versions of H.R. 2642 would have allowed the tribes to market their water outside of State law, and possibly against the Law of the River. The Law of the River is the result of several acts of Congress, Supreme Court decisions and basin compacts among the basin States. It provides for the allocation of water between the upper and lower Colorado River Basins, and between the various States in the basin. Additionally, it is based on the assumption of "use it or lose it." In other words water not put to beneficial use by an upstream water right holder may become surplus to the system and may be diverted by a lower basin water right holder. In the earlier versions, the tribes could have marketed water interstate and would have had the affect of disrupting the allocation systems of the individual States.

The compromise provides that the tribes water rights will have the characteristics of a State water right for off-reservation use; and would have to follow State procedural law for making use or other disposition of that water. Therefore, the allocation systems of the individual States are not impacted by this legislation. However, if another water right holder can prove that the Law of the River, and Colorado State law is not a bar to interstate marketing, then the tribes can also exercise that marketing procedure. This is only fair in treating water rights in an equal fashion.

I believe that this is a good settlement. The tribes are quantifying a large amount of water that can actually be used, and the Federal Government will be providing trust funds so that the tribes can develop systems to use this water. Finally, this bill will make it possible for us to finally fulfill a promise made to the people of Colorado and to the Indian tribes some 20 years ago, by furthering the construction of the Animas-LaPlata multipurpose water project.

Mr. Chairman, this is a good package, a compromise, and I urge my colleagues to support H.R. 2642.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I join in support for this legislation. For many years this has been a very troublesome issue in the West, and Indian and non-Indians and all kinds of communities and the States of Colorado and New Mexico have been trying to work this out.

I think for the first time what we have here is an instance where Indians and non-Indians and various government entities in these two States have worked out their problems. It is not a perfect solution.

I think the gentleman from California [Mr. MILLER] raised some of the issues relating to the payment. In my judgment he has made some very valuable contributions in the past to the cost-sharing issue.

This bill that we are voting on is not the construction of anything. We are not talking about large expenditures or dams. We are talking about a settlement act that paves the way for ultimately a project that the chairman, the gentleman from Alabama [Mr. BEVIL] and others on the Appropriations Committee will have to scrutinize.

There is no divisive issue in the West than the dispute between Indians and non-Indians over water. This has been resolved in a way that is amicable, it is positive, it is a positive step forward.

I would urge my colleagues in the House to follow the lead of the gentleman from Arizona [Mr. UDALL], follow the gentleman from Arizona [Mr. CAMPBELL], follow the minority for a piece of legislation that makes sense and hopefully will be approved.

This bill will settle an Indian water rights dispute to the benefit of the Ute Indian Tribes and the people of southwestern Colorado and northwestern New Mexico. This bill is very important to the people in San Juan County, NM, in my congressional district. After years of negotiations they have settled a very complicated dispute to avoid the costly litigation that is normally part of Indian water rights claims. This bill will provide water to the Indian tribes and to the arid part of New Mexico. It is supported by the San Juan Commission and the cities of Aztec and Farmington who are dependent on this water.

I want to commend the gentleman from Colorado for his excellent work on fashioning this bill which advances the interests of Indians and non-Indians alike. I strongly urge my colleagues to support H.R. 2642.

Mr. RHODES. Mr. Chairman, I yield 1 minute to my friend and colleague, the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, I, too, rise in support of this legislation.

Based on the fact that if we do not come to grips legislatively with some of these water questions, particularly when they deal with us who live in the West, in New Mexico, Colorado, Arizona, and other Western States, and we leave it to the judicial side of this governmental triad, I think it is a mistake.

This is a good solution to one that could otherwise be terribly imperiled by going through a judicial system that takes a long, almost forever, period of time to settle, because this country is growing. This is a good solution environmentally in every other consideration. It has no real drawbacks. It is a good approach and it is one that I think we should totally support.

Mr. RHODES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as has been said by most of the speakers, this is a solution to a problem whose time has come.

I want to congratulate and thank the chairman of the full committee, the gentleman from Arizona [Mr. UDALL], and especially extend my congratulations to my colleague, the gentleman from Colorado [Mr. CAMPBELL].

I urge adoption of the bill.

Mr. UDALL. Mr. Chairman, to close the debate on our side, I yield 4 minutes to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, I agree with my colleagues from Arizona that this is a bill that is long overdue.

We have denied some parts of our population from water, one of the singlemost important ingredients a person could have in their lives, and I think it is time that we rectified that.

Congress saw that mistake in 1968 when they authorized the Animas-La Plata project. We never have fulfilled that obligation made in 1968 by our predecessors.

This bill, even though we have heard things about how bad it is on the environment, conforms to all the national environment protection agencies standards.

In addition to that, we are not asking the Federal Government to pay for this whole thing. We are coming up with 39 percent of the total cost of the project, and therefore we conform to the 1985 supplemental appropriations act, which requires some local funding.

We think we have done everything possible to make sure that people in Congress are aware of our commitment to the settling of our disagreements amicably and out of court.

Mr. Chairman, I would hope that my colleagues would see fit to vote for this bill.

Mr. SCHAEFER. Mr. Chairman, I thank the gentleman for yielding time to me. I rise in strong support of H.R. 2642, the Colorado Ute Indian Water Rights Settlement Act of 1988.

After 2 years of negotiation and 10 years of litigation, the States of Colorado and New Mexico, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, and the United States signed a comprehensive settlement agreement on December 10, 1986. This historic agreement clarifies tribal water rights on 25 streams in southwest Colorado. While the agreement will reserve to the tribes a dependable supply of water, they cannot develop these water resources or receive the benefits of this settlement until the enactment of Federal legislation to ratify and implement its terms.

H.R. 2642 will carry out the Colorado Ute Indian water rights settlement and thereby allow delivery of water to the Indian reservations for domestic as well as agricultural uses. Further, this legislation will protect existing nontribal water users and local economies.

A key provision of the agreement is a cost-sharing plan for the construction of the Animas-La Plata project, authorized by Congress in 1968, which will be funded with 38 percent non-Federal funds. This off-stream reservoir will store both Indian and nontribal water and will contribute to economic growth in southwestern Colorado.

Water is the subject of many heated debates in Colorado, primarily because it is one of our most valuable resources. When Indian water rights are involved, the issue becomes even more complex. Therefore, I would like to commend the many people who labored long and hard to reach this agreement, as well as my colleagues who were a part of the legislative process to bring this measure to the floor. Because the many people involved chose to negotiate, we have the opportunity today to honor our commitment to the Indian people made over 100 years ago and thereby avoid costly and divisive litigation.

Failure to adopt this act will result in continued conflict over future water supplies for southwestern Colorado and northern New Mexico. The Colorado Ute Indian Water Rights Settlement Act will provide much-needed agricultural, industrial, and municipal water to Indian and nontribal users and I urge my colleagues to support this act.

Mr. COELHO. Mr. Speaker, I rise in support of the Colorado Ute Indian Water Rights Settlement Act. This legislation would implement an historic agreement on the settlement of Indian water rights claims to seven rivers and streams in southwest Colorado. Through negotiation and cooperation, two Indian tribes, the States of Colorado and New Mexico and scores of non-Indian water users have fashioned a settlement that meets everyone's needs and avoids long and costly litigation.

I want to commend my colleague from Colorado, Mr. CAMPBELL, for his tireless efforts on behalf of this legislation. He has worked extremely hard to iron out the problems with the bill and to make sure that it was brought before the full House. I offer my congratulations on a job well done.

A key element of the bill we have before us is a compromise on the very complex question of off-reservation use of water by the tribes.

The agreement worked out with the States of the lower Colorado River Basin, including my own State of California, makes it absolutely clear that the law of the river is the rule for the courts to follow in judging any attempt to transfer water to the lower basin. This compromise has made it possible for my State and the other lower basin States to support the settlement.

I urge my colleagues to vote for passage of the bill.

Mr. RHODES. Mr. Chairman, I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill, as modified by the amendment printed in section 2 of House Resolution 550, is considered as an original bill for the purpose of amendment, and each section is considered as having been read.

The Clerk will designate section 1.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute, as modified, be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The text of the committee amendment in the nature of a substitute as modified, is as follows:

H.R. 2642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colorado Ute Indian Water Rights Settlement Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) The Federal reserved water rights claims of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe are the subject of existing and prospective lawsuits involving the United States, the State of Colorado, and numerous parties in southwestern Colorado.

(2) These lawsuits will prove expensive and time consuming to the Indian and non-Indian communities of southwestern Colorado.

(3) The major parties to the lawsuits and others interested in the settlement of the water rights claims of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe have worked diligently to settle these claims, resulting in the June 30, 1986, Binding Agreement for Animas-La Plata Project Cost Sharing which was executed in compliance with the cost sharing requirements of chapter IV of Public Law 99-88 (99 Stat. 293), and the December 10, 1986, Colorado Ute Indian Water Rights Final Settlement Agreement.

(4) The Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe, by resolution of their respective tribal councils, which are the duly recognized governing

bodies of each Tribe, have approved the December 10, 1986, Agreement and sought Federal implementation of its terms.

(5) This Act is required to implement portions of the above two agreements.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Agreement" means the Colorado Ute Indian Water Rights Final Settlement Agreement dated December 10, 1986, among the State of Colorado, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, the United States, and other participating parties.

(2) The term "Animas-La Plata Project" means the Animas-La Plata Project, Colorado and New Mexico, a participating project under the Act of April 11, 1956 (70 Stat. 105; 43 U.S.C. 620; commonly referred to as the "Colorado River Storage Project Act") and the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.).

(3) The term "Dolores Project" means the Dolores Project, Colorado, a participating project under the Act of April 11, 1956 (70 Stat. 105; 43 U.S.C. 620; commonly referred to as the "Colorado River Storage Project Act"), the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.), and as further authorized by the Colorado River Basin Salinity Control Act (98 Stat. 2933; 43 U.S.C. 1591).

(4) The term "final consent decree" means the consent decree contemplated to be entered after the date of enactment of this Act in the District Court, Water Division No. 7, State of Colorado, which will implement certain provisions of the Agreement.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The terms "Tribe" and "Tribes" mean the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, or both Tribes, as the context may require.

(7) The term "water year" means a year commencing on October 1 each year and running through the following September 30.

SEC. 4. TRIBAL RESERVED WATERS.

(a) WATER FROM ANIMAS-LA PLATA AND DOLORES PROJECTS.—The Secretary is hereby authorized to use the Animas-La Plata and Dolores Projects to supply reserved water to the Tribes in accordance with the Agreement.

(b) APPLICATION OF FEDERAL RECLAMATION LAWS.—The reserved water supplied to the Tribes or their lessees from the Dolores and Animas-La Plata Projects shall be treated in all respects in the same manner, except as provided in the Agreement, as the Tribes' other reserved waters.

SEC. 5. NONAPPLICABILITY OF THE INDIAN INTERCOURSE ACT.

The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Agreement and the final consent decree. Nothing in this section shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact, or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

SEC. 6. REPAYMENT OF PROJECT COSTS.

(a) MUNICIPAL AND INDUSTRIAL WATER.—(1) The Secretary shall defer, without interest, the repayment of the construction costs allocable to each Tribe's municipal and industrial water allocation from the Animas-La Plata and Dolores Projects until water is first used either by the Tribe or pursuant to a water use contract with the Tribe. Until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall bear the annual operation, maintenance, and replacement costs allocable to the Tribe's municipal and industrial water allocation from the Animas-La Plata and Dolores Projects, which costs shall not be reimbursable by the Tribe.

(2) As an increment of such water is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, repayment of that increment's pro rata share of such allocable construction costs shall commence by the Tribe and the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs.

(b) AGRICULTURAL IRRIGATION WATER.—(1) The Secretary shall defer, without interest, the repayment of the construction costs within the capability of the land to repay, which are allocable to each Tribe's agricultural irrigation water allocation from the Animas-La Plata and Dolores Projects in accordance with the Act of July 1, 1932 (25 U.S.C. 386a; commonly referred to as the "Leavitt Act"), and section 4 of the Act of April 11, 1956 (70 Stat. 107; 43 U.S.C. 620c; commonly referred to as the "Colorado River Storage Project Act"). Such allocated construction costs which are beyond the capability of the land to repay shall be repaid as provided in subsection (g) of this section. Until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall bear the annual operation, maintenance, and replacement costs allocable to the Tribe's agricultural irrigation allocation from the Animas-La Plata Project, which costs shall not be reimbursable by the Tribe.

(2) As an increment of such water is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs. During any period in which water is used by a tribal lessee on land owned by non-Indians, the Tribe shall bear that increment's pro rata share of the allocated agricultural irrigation construction costs within the capability of the land to repay as established in subsection (b)(1).

(c) ANNUAL COSTS WITH RESPECT TO RIDGES BASIN PUMPING PLANT.—(1) The Secretary shall bear any increased annual operation, maintenance, and replacement costs to Animas-La Plata Project water users occasioned by a decision of either Tribe not to take delivery of its Animas-La Plata Project water allocations from Ridges Basin Pumping Plant through the Long Hollow Tunnel and the Dry Side Canal pursuant to Article III, section A, subsection 2.i and Article III, section B, subsection 1.i of the Agreement until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe. Such costs shall not be reimbursable by the Tribe.

(2) As an increment of its water from the Animas-La Plata Project is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, the Tribe shall commence bearing that increment's pro rata share of such increased annual operation, maintenance, and replacement costs, if any.

(d) SECRETARIAL DEFERRAL.—The Secretary may further defer all or a part of the tribal construction cost obligations and bear all or a part of the tribal operation, maintenance, and replacement obligations described in this section in the event a Tribe demonstrates that it is unable to satisfy those obligations in whole or in part from the gross revenues which could be generated from a water use contract for the use of its water either from the Dolores or the Animas-La Plata Projects or from the Tribe's own use of such water.

(e) USE OF WATER.—For the purpose of this section, use of water shall be deemed to occur in any water year in which a Tribe actually uses water or during the term of any water use contract. A water use contract pursuant to which the only income to a Tribe is in the nature of a standby charge is deemed not to be a use of water for the purposes of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such funds as may be necessary for the Secretary to pay the annual operation, maintenance, and replacement costs as provided in this section.

(g) COSTS IN EXCESS OF ABILITY OF THE IRRIGATORS TO REPAY.—The portion of the costs of the Animas-La Plata Project in excess of the ability of the irrigators to repay shall be repaid from the Upper Colorado River Basin Fund pursuant to the Colorado River Storage Project Act and the Colorado River Basin Project Act.

SEC. 7. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—There is hereby authorized to be appropriated the total amount of $49,500,000 for three annual installment payments to the Tribal Development Funds which the Secretary is authorized and directed to establish for each Tribe. Subject to appropriation, and within 60 days of availability of the appropriation to the Secretary, the Secretary shall allocate and make payment to the Tribal Development Funds as follows:

(1) To the Southern Ute Tribal Development Fund, in the first year, $7,500,000; in the two succeeding years, $5,000,000 and $5,000,000, respectively.

(2) To the Ute Mountain Ute Tribal Development Fund, in the first year, $12,000,000; in the two succeeding years, $10,000,000 and $10,000,000, respectively.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribes shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Funds, an adjustment representing the interest income as determined by the Secretary in his sole discretion that would have been earned on any unpaid amount had that amount been placed in the fund as set forth in section 7(a).

(c) TRIBAL DEVELOPMENT.—(1) The Secretary shall, in the absence of an approved tribal investment plan provided for in paragraph (2), invest the moneys in each Tribal Development Fund in accordance with the Act entitled "An Act to authorize the deposit and investment of Indian funds" approved June 24, 1938 (25 U.S.C. 162a). Separate accounts shall be maintained for each Tribe's development fund. The Secretary shall disburse, at the request of a Tribe, the principal and income in its development fund, or any part thereof, in accordance with an economic development plan approved under paragraph (3).

(2) Each Tribe may submit a tribal investment plan for all or part of its Tribal Development Fund as an alternative to the investment provided for in paragraph (1). The Sec-

retary shall approve such investment plan within 60 days of its submission if the Secretary finds the plan to be reasonable and sound. If the Secretary does not approve such investment plan, the Secretary shall set forth in writing and with particularity the reasons for such disapproval. If such investment plan is approved by the Secretary, the Tribal Development Fund shall be disbursed to the Tribe to be invested by the Tribe in accordance with the approved investment plan. The Secretary may take such steps as he deems necessary to monitor compliance with the approved investment plan. The United States shall not be responsible for the review, approval, or audit of any individual investment under the plan. The United States shall not be directly or indirectly liable with respect to any such investment, including any act or omission of the Tribe in managing or investing such funds. The principal and income from tribal investments under an approved investment plan shall be subject to the provisions of this section and shall be expended in accordance with an economic development plan approved under paragraph (3).

(3) Each Tribe shall submit an economic development plan for all or any portion of its Tribal Development Fund to the Secretary. The Secretary shall approve such plan within 60 days of its submission if the Secretary finds that it is reasonably related to the economic development of the Tribe. If the Secretary does not approve such plan, the Secretary shall, at the time of decision, set forth in writing and with particularity the reasons for such disapproval. Each Tribe may alter the economic development plan, subject to the appoval of the Secretary as set forth in this subsection. The Secretary shall not be directly or indirectly liable for any claim or cause of action arising from the approval of an economic development plan or from the use and expenditure by the Tribe of the principal of the funds and income accruing to the funds, or any portion thereof, following the approval by the Secretary of an economic development plan.

(d) PER CAPITA DISTRIBUTIONS.—Under no circumstances shall any part of the principal of the funds, or of the income accruing to such funds, or the revenue from any water use contract, be distributed to any member of either Tribe on a per capita basis.

(e) LIMITATION ON SETTING ASIDE FINAL CONSENT DECREE.—Neither the Tribes nor the United States shall have the right to set aside the final consent decree solely because subsection (c) is not satisfied or implemented.

SEC. 8. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribes are authorized to waive and release claims concerning or related to water rights as described in the Agreement.

(b) CONDITION ON PERFORMANCE BY SECRETARY.—Performance by the Secretary of his obligations under this Act and payment of the moneys authorized to be paid to the Tribes by this Act shall be required only when the Tribes execute a waiver and release as provided in the Agreement.

SEC. 9. ADMINISTRATION.

In exercising his authority to administer water rights on the Ute Mountain Ute and Southern Ute Indian Reservations, the Secretary, on behalf of the United States, shall comply with the administrative procedures governing the water rights confirmed in the Agreement and the Final Consent Decree to the extent provided in Article IV of the Agreement.

SEC. 10. INDIAN SELF-DETERMINATION ACT.

(a) IN GENERAL.—The design and construction functions of the Bureau of Reclamation with respect to the Dolores and Animas-La Plata Projects shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; 25 U.S.C. 450 et seq.) to the same extent as if such functions were performed by the Bureau of Indian Affairs.

(b) APPLICATION.—This section shall not apply if the application of this section would detrimentally affect the construction schedules of the Dolores and Animas-La Plata Projects.

SEC. 11. RULE OF CONSTRUCTION.

(a) IN GENERAL.—If there is an inconsistency between any provision of this Act and the provisions of the Agreement, the provisions of this Act shall control.

(b) WATER MARKETING.—Nothing in this Act nor in the Agreement shall—

(1) constitute authority for the Tribes to market off-reservation and outside of the State of Colorado any water or water right secured to them by the Agreement, or

(2) be deemed a congressional determination that the Tribes do or do not have authority under existing law to market such water or water rights off-reservation.

SEC. 12. INDIVIDUAL MEMBERS OF TRIBES.

Any entitlement to reserved water of any individual member of either Tribe shall be satisfied from the water secured to that member's Tribe.

SEC. 13. EFFECTIVE DATE.

(a) Sections 4(b), 5, and 6 of this Act shall take effect on the date on which the final consent decree contemplated by the Agreement is entered by the District Court, Water Division No. 7, State of Colorado. Any moneys appropriated under section 7 of this Act shall be placed into the Ute Mountain Ute and Southern Ute Tribal Development Funds in the Treasury of the United States together with other parties' contributions to the Tribal Development Funds, but shall not be available for disbursement pursuant to section 7 until such time as the final consent decree is entered. If the final consent decree is not entered by December 31, 1991, the moneys so deposited shall be returned, together with a ratable share of accrued interest, to the respective contributors and the Ute Mountain Ute and Southern Ute Tribal Development Funds shall be terminated and the Agreement may be voided by any party to the Agreement. Upon such termination, the amount contributed thereto by the United States shall be deposited in the general fund of the Treasury.

(b) No provision of this Act shall be of any force or effect if the final consent decree is not executed and approved by the court.

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AMENDMENTS EN BLOC OFFERED BY MR. CAMPBELL

Mr. CAMPBELL. Mr. Chairman, I offer a series of amendments and I ask unanimous consent that the amendments be considered en bloc, be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. CAMPBELL: Page 5, strike lines 1 through 10 (all of section 4), and insert the following:

SEC. 4. PROVISION OF WATER TO TRIBES.

(a) WATER FROM THE ANIMAS-LA PLATA AND DOLORES PROJECTS.—The Secretary is authorized to supply water to the Tribes from the Animas-La Plata and Dolores Projects in accordance with the Agreement: *Provided,* That nothing in this subsection or in the authorized purposes of the projects may be construed to permit or prohibit the sale, exchange, lease, use, or other disposal of such water by the Tribes. Any such sale, exchange, lease, use, or other disposal of water from these projects shall be governed solely by the other provisions of this Act and the Agreement as modified pursuant to section 11 of this Act.

(b) APPLICATION OF FEDERAL RECLAMATION LAWS.—Except as provided in section 5 of this Act, the water supplied to the Tribes from the Animas-La Plata Project and the Dolores Project shall be subject to Federal reclamation laws only to the extent needed to effectuate the terms and conditions contained in article III, section A, subsection 1 and 2 and article III, section B, subsection 1 of the agreement.

Page 5, strike lines 11 through 20 (all of section 5), and insert the following:

SEC. 5. DISPOSAL OF WATER.

(a) INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Agreement and the final consent decree: *Provided,* That nothing in this subsection shall be considered to amend, construe, supersede, or preempt any State law, Federal law, interstate compact, or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(b) RESTRICTION ON DISPOSAL OF WATERS INTO LOWER COLORADO RIVER BASIN.—None of the waters from the Animas-La Plata or Dolores Projects may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin unless water within the Colorado River Basin held by non-Federal, non-Indian holders of that water pursuant to any water rights could be so sold, exchanged, leased, used, or otherwise disposed of under State law, Federal law, interstate compacts, or international treaty pursuant to a final, nonappealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact.

(c) USE OF WATER RIGHTS.—(1) The use of the rights referred to in subsection (a) within the State of Colorado shall be governed solely as provided in the Agreement as modified pursuant to section 11 of this Act and this subsection. The Agreement is hereby modified to provide that as a condition precedent to the use of any water right confirmed in the Agreement and the final consent decree off the reservation of the respective Tribe, any such water right shall become a Colorado State water right during use of that right off the reservation fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(2) The characterizations in the Agreement of any water rights which may be used

off the reservation of the respective Tribe as either "project reserved water right" or "nonproject reserved water right" are hereby expressly disapproved and any claim to water rights so characterized shall be extinguished when the final consent decree is entered.

(d) RULES OF CONSTRUCTION.—Nothing in this Act or in the Agreement shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservations;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any water held pursuant to a Colorado State water right, or of any Colorado State water right, outside the State of Colorado; or

(3) be deemed a congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Colorado.

Page 9, after line 15, insert the following:

(h) DEFERRAL OF CERTAIN CONSTRUCTION COSTS.—Repayment of the portion of the construction costs of the Florida Project which have been allocated to the 563 acre-feet of agricultural irrigation water for which the Southern Ute Tribe is responsible shall be deferred by the Secretary pursuant to the Act of July 1, 1932 (25 U.S.C. 386a; 47 Stat. 564) as provided in section 4(d) of the Act of April 11, 1956 (43 U.S.C. 620c; 70 Stat. 107), and the Florida Water Conservancy District's current repayment obligation shall not change.

Page 14, strike lines 5 through 18 (all of section 11), insert the following:

SEC. 11. MODIFICATION OF AGREEMENT; RULE OF CONSTRUCTION.

(a) MODIFICATION.—The Agreement shall be deemed to have been modified to conform to this Act.

(b) RULE OF CONSTRUCTION.—The Agreement shall be construed in a manner consistent with this Act. This Act is intended solely to permit settlement of existing and prospective litigation among the signatory parties to the Agreement.

Page 15, after line 19, add the following:

SEC. 14. VOIDING OF AGREEMENT.

The United States shall not exercise its right to void the Agreement pursuant to article VI, section C, subsection 2 thereof.

Mr. CAMPBELL. Mr. Chairman, my amendments to H.R. 2642, as reported by the Committee on Interior and Insular Affairs, reflect changes sought both by Upper Colorado River Basin Members of Congress and the Lower Colorado River Basin States of California, Arizona, and Nevada. With these changes, none of the seven Colorado River Basin States object to the passage of H.R. 2642.

The amendments address the only controversial aspect of the legislation in the Interior Committee. The controversy entered around the conditions that would permit the two Colorado Ute Indian Tribes to use their water rights off of the reservations.

The amendments clarify the tribes' rights by providing that if the tribes' water is used off-reservation, then their rights are to be treated as if they were non-Indian water rights arising under Colorado State law. In addition, whenever the tribes' water is used off reservation, it will be subject to State law, as well as that body of law commonly referred to as the "Law of the River" which governs the use of water from the Colorado River as well as all Federal and Ute treaties. In short, the tribes' ability to use their water off their Reservations will be the same as their non-Indian neighbors. These amendments are intended to guarantee that this act and the agreement cannot be read to convey any special rights to the tribes. Neither the act or the agreement, however, are placing the tribes at a disadvantage in comparison to their neighbors.

The amendments change the bill reported by the Interior Committee by modifying section 4(a) to clarify that the Secretary of the Interior is authorized to act in accordance with the agreement. However, this authorization does not provide the authority to allow, nor does it prohibit, the marketing of the tribes' water from the Animas-LaPlata or Dolores projects.

Section 4(b) was changed to confirm that the storage of the tribes' water in the two projects does not trigger the full extent of reclamation law, except as required by section 5.

Section 5(b) was amended to provide that water from the two projects, whether held by Indians or non-Indians, cannot be transferred into the lower basin unless other holders of non-Indian, non-Federal water rights won the right to transfer or market water first.

Section 5(c) was changed to establish that water the tribes use or lease off-reservation will be considered a "State water right" and will be subject to State law and the "Law of the River." This subsection also eliminates the use of the terms "project reserved" and "Non-Project reserved" water rights. As a result of these changes, the tribes continue to have their water rights confirmed as Indian reserved water rights, subject to and controlled by the agreement whenever their water is used on the reservations. Thus, the Tribes retain the ability to return to the reservations as Indian reserved water rights any water rights that have previously been transferred off the reservation as State water rights. Further, because the tribes' water rights continue to be controlled by the agreement, in the event the Dolores or the Animas-La Plata Projects are not timely completed as described in the agreement, the tribes' existing reserved water rights legal claims on the Mancos, Animas, and La Plata Rivers remain intact as the agreement currently requires.

Section 11 is amended to ensure that the agreement is appropriately modified and that the purpose of the act is to permit the settlement of disputes among the parties to the agreement.

A new section 14 has been added in order to make certain that once the President signs this legislation, neither the Department of the Interior or the Department of Justice void the agreement simply because of the changes made by Congress.

This amendment resolves the controversy surrounding this legislation from the Colorado River Basin States' perspective. The amendment took countless hours to draft and to be approved. I have attached a copy of a letter signed by the water resources managers of the respective states for inclusion in the record.

I also wish to especially thank Mike Jackson of the Interior Committee for putting so much effort into resolving this upper and lower basin dispute.

I urge my colleagues to support the adoption of this amendment and I ask that the amendment be agreed to.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I am happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, these amendments en bloc strengthen the understanding we have on the bill and are meritorious and ought to be adopted.

Mr. CAMPBELL. The gentleman from Arizona [Mr. UDALL] is absolutely right. They do strengthen the agreement, and that is the reason that all seven of the States that deal with the Colorado River water are now in agreement on this bill.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

Since we are considering them en bloc, could the gentleman tell me specifically how many amendments there are and what each of them does individually?

Mr. CAMPBELL. There are five amendments. I do not know if you received a copy of them. I can read them at length if the gentleman wants.

Mr. WALKER. No. If the gentleman would just explain them briefly, what each one of them specifically does.

Mr. CAMPBELL. I already explained part of it, and that is, the main, central, focal point of the amendments is that it defines what Indians can do with their water if it left the reservation.

Mr. WALKER. How does that differ from what is in the bill?

Mr. CAMPBELL. It does not really differ from it. When we originally turned in the bill, the bill was neutral on the subject. The lower basin States were a little bit concerned, because the water flowing out of the Colorado goes down into Arizona and California. They were concerned that if the tribes sold their water out of basin that it might reflect on their future water

needs even though they do not have all that water in use now, and this new language simply defines that the tribes will also conform to the same laws and rules as everybody else.

Mr. WALKER. If the gentleman would yield further, in other words, each of the specific five amendments is something which says how the tribes may use the water?

Mr. CAMPBELL. Yes, that is true.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

Mr. LUJAN. Mr. Chairman, I rise in support of the amendments en bloc.

Mr. Chairman, I rise in strong support of H.R. 2642, the Colorado Ute Indian Water Rights Settlement Act. This legislation has the support of the entire delegations from Colorado and New Mexico, the two States most affected by the bill.

H.R. 2642 fulfills a promise made 120 years ago to two Colorado Indian tribes. It represents a settlement that came about through lengthy negotiations between the Southern Ute and Ute Mountain Ute Indian Tribes, the States of Colorado and New Mexico, the Federal Government and a number of water user agencies in southwestern Colorado and northern New Mexico.

The act will provide much needed water for domestic, industrial, and agricultural purposes on the reservations. It will also assure sufficient flow and storage of water for the nontribal residents of the region.

The agreement includes a 38-percent non-Federal cost-sharing plan for the construction of the off-stream reservoir which will store both Indian and nontribal water. This financial commitment from local sources indicates the strong support this settlement has in Colorado and New Mexico.

Mr. Chairman, this bill represents much give-and-take from those most concerned with the project. It shows what can be accomplished when there are good-faith negotiations on a wide range of complex issues.

I urge my colleagues to vote in favor of H.R. 2642.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Colorado [Mr. CAMPBELL].

The amendments were agreed to.

The CHAIRMAN. Are there other amendments to the bill? If not, the question is on the other committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as amended, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GRAY of Illinois] having assumed the chair, Mr. HUGHES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 2642) to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes, pursuant to House Resolution 550, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 249, nays 146, not voting 36, as follows:

[Roll No. 376]

YEAS—249

Ackerman	Chapman	Flake
Akaka	Chappell	Flippo
Alexander	Cheney	Foglietta
Anderson	Clarke	Foley
Andrews	Clement	Frost
Annunzio	Clinger	Gallegly
Anthony	Coats	Garcia
Applegate	Coelho	Gaydos
Aspin	Coleman (MO)	Gejdenson
Atkins	Coleman (TX)	Gephardt
Badham	Collins	Gibbons
Baker	Conte	Glickman
Ballenger	Conyers	Goodling
Barnard	Cooper	Gordon
Bateman	Costello	Gradison
Bates	Coyne	Grandy
Bennett	Craig	Grant
Bereuter	Crockett	Gray (IL)
Bevill	Darden	Gray (PA)
Boehlert	Daub	Green
Boggs	Davis (MI)	Hamilton
Boland	de la Garza	Hansen
Bonior	Dickinson	Harris
Bonker	Dicks	Hastert
Borski	Dingell	Hatcher
Bosco	Dixon	Hawkins
Boucher	Dorgan (ND)	Hayes (LA)
Brennan	Dreier	Hefley
Brooks	Dwyer	Herger
Brown (CA)	Dymally	Horton
Brown (CO)	Dyson	Houghton
Buechner	Edwards (OK)	Hoyer
Bunning	Emerson	Hubbard
Bustamante	English	Huckaby
Callahan	Fazio	Hunter
Campbell	Feighan	Hutto
Chandler	Fish	Inhofe
Jenkins	Michel	Savage
Johnson (CT)	Miller (OH)	Sawyer
Johnson (SD)	Miller (WA)	Schaefer
Jones (NC)	Mineta	Schroeder
Jones (TN)	Moakley	Shuster
Kanjorski	Molinari	Skaggs
Kaptur	Montgomery	Skeen
Kastenmeier	Moorhead	Skelton
Kennedy	Morrison (WA)	Slattery
Kildee	Mrazek	Smith (FL)
Kolbe	Murphy	Smith (IA)
Kolter	Murtha	Smith (NE)
Kyl	Myers	Smith (NJ)
LaFalce	Natcher	Smith, Denny (OR)
Lancaster	Neal	Smith, Robert (OR)
Lantos	Nichols	Spence
Latta	Nielson	Stallings
Leath (TX)	Oakar	Stangeland
Lehman (CA)	Oberstar	Stenholm
Lehman (FL)	Obey	Stratton
Leland	Ortiz	Swift
Lent	Owens (UT)	Synar
Lewis (CA)	Parris	Tauzin
Lewis (GA)	Pashayan	Taylor
Lightfoot	Patterson	Thomas (CA)
Lipinski	Pease	Thomas (GA)
Livingston	Penny	Torricelli
Lowery (CA)	Pepper	Towns
Lujan	Perkins	Traficant
Luken, Thomas	Pickle	Traxler
Madigan	Price	Udall
Manton	Quillen	Valentine
Marlenee	Rangel	Volkmer
Martin (NY)	Regula	Vucanovich
Martinez	Rhodes	Watkins
Matsui	Richardson	Wheat
Mavroules	Ridge	Whittaker
Mazzoli	Rinaldo	Whitten
McCandless	Roberts	Williams
McCloskey	Rodino	Wilson
McCurdy	Roe	Wise
McDade	Rogers	Wylie
McHugh	Rose	Yatron
McMillan (NC)	Rostenkowski	Young (AK)
McMillen (MD)	Roth	
Mfume	Rowland (GA)	
Mica	Roybal	

NAYS—146

Archer	Gingrich	Rahall
Armey	Gonzalez	Ravenel
AuCoin	Guarini	Ray
Bartlett	Gunderson	Ritter
Barton	Hall (TX)	Robinson
Beilenson	Hammerschmidt	Roukema
Bentley	Henry	Rowland (CT)
Bilbray	Hertel	Russo
Bilirakis	Hiler	Sabo
Billey	Hochbrueckner	Saiki
Boxer	Hopkins	Saxton
Broomfield	Hughes	Scheuer
Bruce	Hyde	Schneider
Bryant	Ireland	Schuette
Burton	Jeffords	Schulze
Byron	Jontz	Schumer
Cardin	Kennelly	Sensenbrenner
Carper	Konnyu	Sharp
Carr	Kostmayer	Shaw
Coble	Lagomarsino	Shays
Combest	Leach (IA)	Shumway
Coughlin	Lewis (FL)	Sikorski
Crane	Lloyd	Sisisky
Dannemeyer	Lukens, Donald	Slaughter (VA)
Davis (IL)	Markey	Smith (TX)
DeFazio	Martin (IL)	Smith, Robert (NH)
DeLay	McCrery	Snowe
Dellums	McGrath	Solarz
DeWine	Meyers	Solomon
DioGuardi	Miller (CA)	Spratt
Dornan (CA)	Mollohan	St Germain
Downey	Moody	Staggers
Durbin	Morella	Stark
Early	Nagle	Stokes
Edwards (CA)	Nelson	Studds
Erdreich	Nowak	Stump
Evans	Olin	Sundquist
Fascell	Owens (NY)	Tallon
Fawell	Packard	Tauke
Fields	Panetta	Torres
Florio	Payne	Upton
Frank	Pelosi	Vander Jagt
Frenzel	Petri	Vento
Gallo	Pickett	Visclosky
Gekas	Porter	Walgren
Gilman	Pursell	

Walker	Wolf	Wyden
Weber	Wolpe	Yates
Weldon	Wortley	Young (FL)

NOT VOTING—36

Berman	Hall (OH)	Lungren
Boulter	Hayes (IL)	Mack
Clay	Hefner	MacKay
Courter	Holloway	McCollum
Derrick	Jacobs	McEwen
Donnelly	Kasich	Morrison (CT)
Dowdy	Kemp	Oxley
Eckart	Kleczka	Slaughter (NY)
Espy	Levin (MI)	Sweeney
Ford (MI)	Levine (CA)	Swindall
Ford (TN)	Lott	Waxman
Gregg	Lowry (WA)	Weiss

□ 1815

The Clerk announced the following pair:

On this vote:

Mr. Hayes of Illinois for, with Mr. Eckart against.

Mrs. SAIKI, Miss SCHNEIDER, Ms. SNOWE and Messrs. WELDON, GONZALEZ, BRYANT, ARMEY, HILER, CARR, LAGOMARSINO, STAGGERS, GUARINI, RAHALL, WALGREN, DELAY, LEWIS of Florida, PORTER, SUNDQUIST, HYDE, SLAUGHTER of Virginia, PURSELL, and RAVENEL changed their vote from "yea" to "nay."

Messrs. KANJORSKI, TAYLOR, HANSEN, and HARRIS changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION AUTHORIZING THE SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON ANY DAY FOR THE REMAINDER OF THIS CONGRESS

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-1035) on the resolution (H. Res. 563) to authorize the Speaker to entertain motions to suspend the rules of the House on any day for the remainder of this Congress, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2642, the bill just passed.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERMISSION TO INCLUDE IN THE RECORD CERTAIN CORRECTIONS RELATIVE TO CONFERENCE REPORT ON H.R. 4481, DEFENSE SAVINGS ACT OF 1988

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to include in the RECORD at this point the correct version of four tables and minor text changes in the conference report on H.R. 4481, the Department of Defense authorization bill for fiscal year 1989, that were incorrectly printed in the CONGRESSIONAL RECORD for September 28, 1988. These items were correct as filed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The tables and corrections referred to are as follows:

Specifically, the tables appearing at page H8647 (Missile Procurement, Army); H8725 (Research and Development, Air Force); H8730 (Research and Development, Air Force); and H8840 (Family Housing, Army) were incorrect as printed. Correct copies, as filed, are attached.

In addition, in the material relating to section 202 on ICBM Modernization appearing on page H8738 the words, "be made" should be inserted in lieu of the stars shown; and the word "undistributed" should be substituted for "unidispersed". All of these changes are to conform the RECORD copy to the copy as filed.

P-1 LINE	ITEM	FY 1988 Estimate Quantity	FY 1988 Estimate Amount	Revised FY 1989 Request Quantity	Revised FY 1989 Request Amount	House Authorization Quantity	House Authorization Amount	Senate Authorization Quantity	Senate Authorization Amount	House +/- Senate Quantity	House +/- Senate Amount	Conference Change to Request Quantity	Conference Change to Request Amount	Conference Authorization Quantity	Conference Authorization Amount
	MISSILE PROCUREMENT, ARMY														
1	CHAPARRAL	122	30,189	368	57,907	368	57,907	368	57,907		0			368	57,907
2	NON LINE OF SIGHT AIR DEFENSE SYSTEM	0	0				0		0		0				0
3	ADVANCE PROCUREMENT (CY)	0	0				0		0		0				0
4	ADS HVY MSL SYSTEM	0	0	60	118,500	60	118,500		33,500	60	85,000		0	60	118,500
4	LESS: ADVANCE PROCUREMENT (PY)	0	0		(33,500)		(33,500)		(33,500)		0				(33,500)
5	ADVANCE PROCUREMENT (CY)	0	33,500		23,750		23,750		23,750		0				23,750
6	CLASSIFIED PROGRAM	0	0				0		0		0				0
7	OTHER MISSILE SUPPORT	0	4,506		4,640		4,640		4,640		0				4,640
8	PATRIOT(MYP)	715	867,142	815	828,435	815	828,435	815	828,435		0			815	828,435
8	LESS: ADVANCE PROCUREMENT (PY)	0	(34,700)		(47,100)		(47,100)		(47,100)		0				(47,100)
9	ADVANCE PROCUREMENT (CY)	0	40,100		37,400		37,400		37,400		0				37,400
10	STINGER(MYP)	4,200	159,626	6,750	281,248	6,750	281,248	6,750	281,248		0			6,750	281,248
10	LESS: ADVANCE PROCUREMENT (PY)	0	(22,064)		(38,780)		(38,780)		(38,780)		0				(38,780)
11	ADVANCE PROCUREMENT (CY)	0	33,891				0		0		0				0
12	STINGER PEDESTAL MOUNT	0	43,633		92,242		92,242		117,242		(25,000)		0		92,242
13	LASER HELLFIRE SYSTEM	5,000	168,356	5,000	180,502	6,000	215,502	5,000	180,502	1,000	35,000	1,000	25,000	6,000	205,502
14	TOW 2 (MYP)	12,000	159,739	12,000	143,682	12,000	143,682	12,000	143,682		0			12,000	143,682
14a	TOW 2 RETROFIT						24,400		0		24,400		0		0
15	PERSHING	0	6,710				0		0		0				0
16	MULTIPLE LAUNCH ROCKET SYSTEM (MYP)	72,000	487,443	48,000	426,041	72,000	483,341	48,000	426,041	24,000	57,300		(5,000)	48,000	421,041
16a	MLRS BINARY WARHEAD				16,600		0		16,600		(16,600)		(16,600)		0
16	LESS: ADVANCE PROCUREMENT (PY)	0	(82,700)		(56,600)		(56,600)		(56,600)		0				(56,600)
17	ADVANCE PROCUREMENT (CY)	0	0		20,800		20,800		20,800		0				20,800
18	ARMY TACTICAL MISSILE SYS (ATACMS)	0	7,326	66	78,100	66	78,100	66	78,100		0			66	78,100
18	LESS: ADVANCE PROCUREMENT (PY)	0	0		(1,800)		(1,800)		(1,800)		0				(1,800)
19	ADVANCE PROCUREMENT (CY)	0	1,800		4,300		4,300		4,300		0				4,300
	MODIFICATION OF MISSILES														
20	PATRIOT MODS	0	29,000		40,185		40,185		40,185		0				40,185
21	CHAPARRAL MODS	0	31,228		8,129		8,129		8,129		0				8,129
22	HAWK MODS	0	35,671		27,592		27,592		27,592		0				27,592
23	TOW MODS	0	18,021		19,097		19,097		34,297		(15,200)		15,200		34,297
24	DRAGON MODS	0	7,258		17,281		17,281		17,281		0				17,281
25	LANCE MODS	0	0		15,359		15,359		15,359		0				15,359
26	PERSHING MODS	0	9,293		980		980		980		0				980
27	MLRS MODS	0	4,506		32,860		32,860		32,860		0				32,860
28	AN/TSQ-73 MODS	0	0		1,289		1,289		1,289		0				1,289
	SPARES AND REPAIR PARTS										0				
29	SPARES AND REPAIR PARTS	0	246,600		254,302		254,302		254,302		0				254,302
30	AIR DEFENSE TARGETS	0	21,363		22,076		22,076		22,076		0				22,076
31	ITEMS LESS THAN $2.0M (MISSILES)	0	1,740		2,148		2,148		2,148		0				2,148
32	PRODUCTION BASE SUPPORT	0	11,574		9,036		9,036		9,036		0				9,036
	TOTAL MISSILE PROCUREMENT ARMY		2,320,751		2,586,600		2,686,700		2,541,800		144,900		18,500		2,605,200

R-1 Line	PE	Program	FY 1988 Estimate	Revised FY 1989 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
46	0603723F	CIVIL AND ENVIRONMENTAL ENGINEERING TECH	11,827	9,014		9,014		9,014	0		9,014
47	0603726F	C3I SUBSYSTEM INTEGRATION	5,220	8,026		8,026		8,026	0		8,026
48	0603727F	ADVANCED COMMUNICATIONS TECHNOLOGY (H)	0	0		0		0	0		0
49	0603728F	ADVANCED COMPUTER TECHNOLOGY	4,128	10,239		10,239		10,239	0		10,239
50	0603743F	ELECTRONIC COMBAT TECHNOLOGY	0	0		0		0	0		0
51	0603745F	CHEMICAL WARFARE DEFENSE (H)	0	0		0		0	0		0
52	0603750F	COUNTER-COUNTERMEASURES (CCM) (H)	0	0		0		0	0		0
53	0603751F	TRAINING SYSTEMS TECHNOLOGY	276	470		470		470	0		470
54	0603752F	DOD SOFTWARE ENGINEERING INSTITUTE	18,929	0		0		0	0		0
55	0603789F	C3I TECHNOLOGY DEVELOPMENT	30,000	18,795		18,795		18,795	0		18,795
56	0603110F	SPECIAL EVALUATION PROGRAM	[ ]	[ ]		[ ]	[-10,000]	[ ]	[10,000]	0	[ ]
57	0603111F	MERIDIAN	[ ]	[ ]		[ ]		[ ]	0		[ ]
58	0603265F	LONG RANGE CONVENTIONAL CRUISE MISSILE	0	50,000	(40,000)	10,000		50,000	(40,000)	(20,000)	30,000
59	0603311F	ADVANCED STRATEGIC MISSILE SYSTEMS	133,640	151,836		151,836		151,836	0		151,836
60	0603312F	ADVANCED CONCEPTS	[ ]	[ ]		[ ]		[ ]	0		[ ]
61	0603364F	SHORT RANGE ATTACK MISSILE II (SRAM II)	174,320	231,467		231,467	(30,000)	201,467	30,000	(30,000)	201,467
62	0603367F	RELOCATABLE TARGET CAPABILITY PROGRAM	9,961	19,705		19,705		19,705	0		19,705
63	0603368F	AIR DEFENSE BATTLE MANAGEMENT TECHNOLOGY	0	0		0		0	0		0
64	0603369F	CRUISE MISSILE ENGAGEMENT SYSTEMS TECH	0	0		0		0	0		0
65	0603424F	CRUISE MISSILE SURVEILLANCE TECHNOLOGY	0	0		0		0	0		0
66	0603716F	ATMOSPHERIC SURVEILLANCE TECHNOLOGY	0	0		0		0	0		0
67	0603717F	TECHNICAL ON-SITE INSPECTION PROGRAM	10,627	9,291		9,291		9,291	0		9,291
68	0603735F	WWMCCS ARCHITECTURE	0	0		0		0	0		0
69	0603738F	ADI SURVEILLANCE TECHNOLOGY	0	0		0		0	0		0
70	0604216F	WWABNCP SYSTEM REPLACEMENT	0	0		0		0	0		0
71	0604226F	B-1B	366,841	221,591		221,591		221,591	0		221,591
71a		INTEGRATION ACTIVITIES							0	15,000	15,000
72	0604234F	COMMON STRATEGIC ROTARY LAUNCHER	5,693	946		946		946	0		946
73	0604240F	B-2 ADVANCED TECHNOLOGY BOMBER	[ ]	[ ]		[ ]		[ ]	0		[ ]
74	0604312F	ICBM MODERNIZATION	1,068,268	1,032,891	(300,000)	732,891	(242,891)	790,000	(57,109)	(142,891)	890,000
74	0604312F	(PEACEKEEPER)	36,000	40,000	(7,109)	32,891		40,000	(7,109)	0	40,000
74	0604312F	(SMALL ICBM)	700,000	200,000	400,000	600,000	(150,000)	50,000	550,000	50,000	250,000
74	0604312F	(MX RAIL GARRISON)	332,268	792,891	(692,891)	100,000	(92,891)	700,000	(600,000)	(192,891)	600,000
75	0604326F	STRATEGIC CONV STANDOFF CAPABILITY (SCSC	7,969	10,000		10,000		10,000	0		10,000
76	0604361F	AIR LAUNCHED CRUISE MISSILE (ALCM)	3,577	957		957		957	0		957
77	0604406F	SPACE DEFENSE SYSTEM (PY SAVINGS)	131,852	0	(16,000)	(16,000)	(16,000)	(16,000)	0	(16,000)	(16,000)
78	0604711F	SYSTEMS SURVIVABILITY (NUCLEAR EFFECTS)	12,926	8,333		8,333		8,333	0		8,333
79	0101120F	ADVANCED CRUISE MISSILE	[ ]	[ ]		[ ]		[ ]	0		[ ]
80	0101135F	AIRCRAFT SURVIVABILITY ENHANCEMENTS	[ ]	[ ]		[ ]		[ ]	0		[ ]
81	0101142F	KC-135 SQUADRONS	4,019	3,176		3,176		3,176	0		3,176
82	0101213F	MINUTEMAN SQUADRONS	84,295	61,069		61,069		61,069	0		61,069
83	0101312F	PACCS AND WWABNCP SYSTEM EC-135 CLASS V	939	1,210		1,210		1,210	0		1,210
84	0101313F	WAR PLANNING AUTOMATED DATA PROCESSING (	20,321	20,298		20,298		20,298	0		20,298
85	0101316F	SAC COMMUNICATIONS	0	0		0		0	0		0
86	0102310F	NCMC - TW/AA SYSTEMS	57,624	70,616		70,616		70,616	0		70,616
87	0102311F	NCMC - SPACE DEFENSE SYSTEMS	23,410	22,982		22,982		22,982	0		22,982
88	0102313F	BALLISTIC MISSILE TACTICAL WARNING/ATTAC	2,256	2,533		2,533		2,533	0		2,533
89	0102325F	JOINT SURVEILLANCE SYSTEM	2,147	1,751		1,751		1,751	0		1,751
90	0102411F	SURVEILLANCE RADAR STATIONS/SITES	5,204	1,667		1,667		1,667	0		1,667

R-1 Line	PE	Program	FY 1988 Estimate	Revised FY 1989 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Change to Request	Conference Authorized
235	0603402F	SPACE TEST PROGRAM	53,887	72,796	20,000	92,796	(20,000)	52,796	40,000	3,000	75,796
236	0603438F	SATELLITE SYSTEMS SURVIVABILITY	3,264	3,784		3,784		3,784	0	1,516	5,300
		SATELLITE SYSTEMS SURVIVABILITY			5,300	5,300		0	5,300	0	0
237	0603790F	NATO RESEARCH AND DEVELOPMENT	0	0		0		0	0		0
238	0604211F	ADVANCED AERIAL TARGET DEVELOPMENT	9,848	3,711		3,711		3,711	0		3,711
239	0604227F	FLIGHT SIMULATOR DEVELOPMENT	56,778	72,800		72,800		72,800	0		72,800
240	0604609F	R&M MATURATION/TECHNOLOGY INSERTION	14,942	20,760		20,760		20,760	0		20,760
241	0604707F	WEATHER SYSTEMS - ENG DEV	12,488	8,761		8,761		8,761	0		8,761
242	0604735F	RANGE IMPROVEMENT	55,782	40,065		40,065	(20,000)	20,065	20,000	(20,000)	20,065
243	0604747F	ELECTROMAGNETIC RADIATION TEST FACILITIE	5,919	5,233		5,233		5,233	0		5,233
244	0604755F	IMPROVED CAPABILITY FOR DEVELOPMENT TEST	52,296	50,708		50,708		50,708	0		50,708
245	0605101F	PROJECT AIR FORCE	22,020	21,992		21,992		21,992	0		21,992
246	0605304F	ACQUISITION & COMMAND SUPPORT (ACS) - TE	0	0		0		0	0		0
247	0605306F	RANCH HAND II EPIDEMIOLOGY STUDY	5,754	1,747		1,747		1,747	0		1,747
248	0605502F	SMALL BUSINESS INNOVATIVE RESEARCH	0	0		0		0	0		0
249	0605708F	NAVIGATION/RADAR/SLED TRACK TEST SUPPORT	24,122	20,545	4,414	24,959		20,545	4,414	0	20,545
250	0605806F	ACQUISITION AND COMMAND SUPPORT	0	0		0		0	0		0
251	0605807F	TEST AND EVALUATION SUPPORT	295,106	298,087		298,087		298,087	0		298,087
252	0605808F	ADVANCED SYSTEMS ENGINEERING/PLANNING	13,093	14,431		14,431		14,431	0	(1,000)	13,431
253	0605809F	DYCOMS	7,471	9,191		9,191		9,191	0		9,191
254	0605863F	RDT&E AIRCRAFT SUPPORT	50,000	57,826		57,826		57,826	0		57,826
255	0605872F	PRODUCTIVITY INVESTMENTS	0	0		0		0	0		0
256	0605874F	PRODUCT PERFORMANCE AGREEMENT CENTER	0	0		0		0	0		0
257	0605894F	REAL PROPERTY MAINTENANCE - RDT&E	74,465	81,881		81,881		81,881	0		81,881
258	0605896F	BASE OPERATIONS - RDT&E	56,809	61,543		61,543		61,543	0		61,543
259	0305110F	SATELLITE CONTROL FACILITY	95,458	100,803		100,803		100,803	0		100,803
260	0305119F	SPACE BOOSTERS	454,865	488,785		488,785		488,785	0	(16,000)	472,785
261	0305130F	CONSOLIDATED SPACE OPERATIONS CENTER	39,864	44,085		44,085		44,085	0		44,085
262	0305160F	DEFENSE METEOROLOGICAL SATELLITE PROGRAM	42,675	53,364		53,364		53,364	0		53,364
263	0305171F	SPACE SHUTTLE OPERATIONS	51,205	58,715		58,715		58,715	0	(17,100)	41,615
264	0701112F	INVENTORY CONTROL POINT OPERATIONS	4,329	4,476		4,476		4,476	0		4,476
265	0702207F	DEPOT MAINTENANCE (NON-IF)	0	973		973		973	0		973
266	0708011F	INDUSTRIAL PREPAREDNESS	84,670	97,911		97,911		97,911	0		97,911
267	0708026F	PRODUCTIVITY, RELIABILITY, AVAILABILITY,	14,706	16,398		16,398		16,398	0		16,398
268	1001004F	INTERNATIONAL ACTIVITIES	3,107	3,737		3,737		3,737	0		3,737
		UNDISTRIBUTED REDUCTION			5,500	5,500	5,000	5,000	500	(100,000)	(100,000)
		TOTAL RDT&E, AIR FORCE	15,165,388	14,932,100	(218,286)	14,713,814	(210,391)	14,721,709	(7,895)	(251,275)	14,680,825

INSTALLATION	PROJECT	Revised FY89 Request	House Change to Request	House Authorized	Senate Change to Request	Senate Authorized	House +/- Senate	Conference Agreement Change to Request	Conference Agreement Authorized
	FAMILY HOUSING								
	FAMILY HOUSING ARMY								
	ALASKA								
FORT WAINWRIGHT	NEW CONSTRUCTION (150)	27,000		27,000		27,000	0		27,000
	CALIFORNIA								
FORT IRWIN	NEW CONSTRUCTION (263)	24,000		24,000		24,000	0		24,000
	HAWAII								
SCHOFIELD BARRACKS	NEW CONSTRUCTION (40)	4,450		4,450		4,450	0		4,450
HELEMANO	NEW CONSTRUCTION (100)	11,400		11,400		11,400	0		11,400
	KANSAS								
FORT LEAVENWORTH	NEW CONSTRUCTION (272)	20,000		20,000		20,000	0		20,000
	NEW YORK								
FORT DRUM	NEW CONSTRUCTION (100)	10,000		10,000		10,000	0		10,000
	TEXAS								
FORT BLISS	NEW CONSTRUCTION (108)		9,100	9,100		0	9,100	9,100	9,100
	GERMANY								
HOENFELS	NEW CONSTRUCTION (88)	8,400		8,400		8,400	0		8,400
	WORLWIDE UNSPECIFIED								
UNSPECIFIED WORLDWIDE LOCATIONS	PLANNING	10,628		10,628		10,628	0		10,628
UNSPECIFIED WORLDWIDE LOCATIONS	CONSTRUCTION IMPROVEMENTS	72,300		72,300		72,300	0		72,300
	OPERATING EXPENSES:								
UNSPECIFIED WORLDWIDE LOCATIONS	LEASING	227,700		227,700		227,700	0	8,090	235,790
UNSPECIFIED WORLDWIDE LOCATIONS	INTEREST PAYMENTS	49		49		49	0		49
UNSPECIFIED WORLDWIDE LOCATIONS	MAINTENANCE OF REAL PROPERTY	548,061		548,061		548,061	0		548,061
UNSPECIFIED WORLDWIDE LOCATIONS	MANAGEMENT ACCOUNT	83,137		83,137		83,137	0		83,137
UNSPECIFIED WORLDWIDE LOCATIONS	FURNISHINGS ACCOUNT	139,769		139,769	(5,000)	134,769	5,000	(8,090)	131,679
UNSPECIFIED WORLDWIDE LOCATIONS	MORTGAGE INSURANCE PREMIUMS	31		31		31	0		31
UNSPECIFIED WORLDWIDE LOCATIONS	MISCELLANEOUS ACCOUNT	1,510		1,510		1,510	0		1,510
UNSPECIFIED WORLDWIDE LOCATIONS	DEBT REDUCTION	371		371		371	0		371
UNSPECIFIED WORLDWIDE LOCATIONS	UTILITIES ACCOUNT	284,265		284,265		284,265	0		284,265
UNSPECIFIED WORLDWIDE LOCATIONS	SERVICES ACCOUNT	55,200		55,200		55,200	0		55,200
	TOTAL FAMILY HOUSING ARMY	1,528,271	9,100	1,537,371	(5,000)	1,523,271	14,100	9,100	1,537,371
	RECAP:								
	CONSTRUCTION & ACQUISITION	188,178	9,100	197,278	0	188,178	9,100	9,1)	197,278
	SUPPORT/OPERATING EXPENSE	1,340,093	0	1,340,093	(5,000)	1,335,093	5,000	0	1,340,093

CONFERENCE REPORT ON H.R. 3471, DEPARTMENT OF VETERANS AFFAIRS ACT

Mr. BROOKS submitted the following conference report and statement on the bill (H.R. 3471) to establish the Veterans' Administration as an executive department:

CONFERENCE REPORT (H. Rept. 100-1036)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3471) to establish the Veterans' Administration as an executive department, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Act".

SEC. 2. ESTABLISHMENT OF VETERANS' ADMINISTRATION AS AN EXECUTIVE DEPARTMENT.

The Veterans' Administration is hereby redesignated as the Department of Veterans Affairs and shall be an executive department in the executive branch of the Government. There shall be at the head of the Department a Secretary of Veterans Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

SEC. 3. PRINCIPAL OFFICERS.

(a) DEPUTY SECRETARY.—There shall be in the Department of Veterans Affairs a Deputy Secretary of Veterans Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe.

(b) CHIEF MEDICAL DIRECTOR.—(1) There shall be in the Department a Chief Medical Director, who shall be a doctor of medicine and shall, subject to subsection (f), be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability in the medical profession, in health-care administration and policy formulation, and in health-care fiscal management, and on the basis of substantial experience in connection with the programs of the Veterans Health Services and Research Administration or programs of similar content and scope. The Chief Medical Director shall be the head of, and shall be directly responsible to the Secretary for the operations of, the Veterans Health Services and Research Administration. The Chief Medical Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Medical Director prior to the completion of the term for which the Chief Medical Director is appointed, the President shall communicate the reasons for such removal to both Houses of Congress.

(2)(A) Whenever a vacancy in the position of Chief Medical Director occurs or is anticipated, the Secretary of Veterans Affairs shall establish a commission to recommend individuals to the President for appointment to the position.

(B) A commission established under this paragraph shall be composed of the following members appointed by the Secretary:

(i) Three persons representing clinical care and medical research and education activities affected by the Veterans Health Services and Research Administration.

(ii) Two persons representing veterans served by the Veterans Health Services and Research Administration.

(iii) Two persons who have experience in the management of veterans health services and research programs, or programs of similar content and scope.

(iv) The Deputy Secretary of Veterans Affairs.

(v) The Chairman of the Special Medical Advisory Group established under section 4112 of title 38, United States Code.

(vi) One person who has held the position of Chief Medical Director, if the Secretary determines that it is desirable for such person to be a member of the Commission.

(C) A commission established under this paragraph shall recommend at least three individuals for appointment to the position of Chief Medical Director. Such commission shall submit all recommendations to the Secretary. The Secretary shall forward such recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request such commission to recommend additional individuals for appointment.

(D) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this paragraph.

(c) CHIEF BENEFITS DIRECTOR.—(1) There shall be in the Department a Chief Benefits Director, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability in fiscal management and the administration of programs within the Veterans Benefits Administration or programs of similar content and scope. The Chief Benefits Director shall be the head of, and shall be directly responsible to the Secretary for the operations of, the Veterans Benefits Administration. The Chief Benefits Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Benefits Director prior to the completion of the term for which the Chief Benefits Director is appointed, the President shall communicate the reasons for such removal to both Houses of Congress.

(2)(A) Whenever a vacancy in the position of Chief Benefits Director occurs or is anticipated, the Secretary of Veterans Affairs shall establish a commission to recommend individuals to the President for appointment to the position.

(B) A commission established under this paragraph shall be composed of the following members appointed by the Secretary:

(i) Three persons representing education and training, real estate, mortgage finance, and related industries, and survivor benefits activities affected by the Veterans Benefits Administration.

(ii) Two persons representing veterans served by the Veterans Benefits Administration.

(iii) Two persons who have experience in the management of veterans benefits programs or programs of similar content and scope.

(iv) The Deputy Secretary of Veterans Affairs.

(v) The Chairman of the Veterans' Advisory Committee on Education formed under section 1792 of title 38, United States Code.

(vi) One person who has held the position of Chief Benefits Director, if the Secretary determines that it is desirable for such person to be a member of the Commission.

(C) A commission established under this paragraph shall recommend at least three individuals for appointment to the position of Chief Benefits Director. Such commission shall submit all recommendations to the Secretary. The Secretary shall forward such recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request such commission to recommend additional individuals for appointment.

(D) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this paragraph.

(d) DIRECTOR OF NATIONAL CEMETERY SYSTEM.—There shall be in the Department of Veterans Affairs a Director of the National Cemetery System, who—

(1) shall be appointed by the President, by and with the advice and consent of the Senate;

(2) shall serve as the head of the National Cemetery System provided for in section 1000 of title 38, United States Code; and

(3) shall perform such functions as may be assigned by the Secretary.

(e) CONTINUATION OF SERVICE OF ADMINISTRATOR AND DEPUTY ADMINISTRATOR.—The individuals serving as Administrator and Deputy Administrator of Veterans' Affairs on the effective date of this Act may act as Secretary and Deputy Secretary of the Department, respectively, until the date an individual is appointed under this Act to the office concerned, or until the end of the 120-day period provided for in section 3348 of title 5, United States Code (relating to limitations on the period of time a vacancy may be filled temporarily), whichever is earlier.

(f) CONTINUATION OF SERVICE OF CHIEF MEDICAL DIRECTOR.—The individual serving as Chief Medical Director on the effective date of this Act may continue to serve in that capacity until the expiration of the term prescribed by section 4103(b)(1) of title 38, United States Code, unless removed by the Secretary of Veterans Affairs for cause in accordance with section 4103(b)(3) of such title.

(g) CONTINUATION OF SERVICE OF CHIEF BENEFITS DIRECTOR.—The individual serving as Chief Benefits Director on the effective date of this Act may continue to serve in that capacity until an individual is appointed under this Act to that office.

(h) CONTINUATION OF SERVICE OF DIRECTOR, NATIONAL CEMETERY SYSTEM.—The individual serving as Director, National Cemetery System on the effective date of this Act may act as the Director of the National Cemetery System until an individual is appointed under this Act to that office.

SEC. 4. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Veterans Affairs not more than 6 Assistant Secretaries, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF ASSISTANT SECRETARIES.—The Secretary shall assign to Assistant Sec-

retaries such functions as the Secretary considers appropriate, including the following functions:

(1) Budgetary and financial functions.

(2) Personnel management and labor relations functions.

(3) Planning, studies, and evaluations.

(4) Management, productivity, and logistic support functions.

(5) Information management functions as required by section 3506 of title 44, United States Code.

(6) Capital facilities and real property program functions.

(7) Equal opportunity functions.

(8) Functions regarding the investigation and adjudication of complaints of employment discrimination within the Department.

(9) Functions regarding intergovernmental, public, and consumer information and affairs.

(10) Procurement functions.

(c) CHIEF FINANCIAL OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose functions include budgetary and financial functions as the Chief Financial Officer of the Department.

(2) The Chief Financial Officer shall—

(A) advise the Secretary on financial management of the Department;

(B) develop and maintain a financial management system for the Department (including accounting and related transaction systems, internal control systems, and financial reporting systems) which provides for—

(i) development and maintenance of consistent, compatible, and useful data;

(ii) development and reporting of cost information; and

(iii) integration of accounting and budgeting information;

(C) supervise and coordinate all financial management system activities and operations of the Department; and

(D) direct and manage financial management activities and operations of the Department, including—

(i) the development of financial management budgets; and

(ii) the approval and management of financial management system design or enhancement projects.

(d) CHIEF INFORMATION RESOURCES OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose functions include information management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) The Chief Information Resources Officer shall—

(A) advise the Secretary on information management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 759 of title 40, United States Code;

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained within Department information systems; and

(iv) the development and annual revision of a five-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required by section 3506 of title 44, United States Code.

(e) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(f) CONTINUING PERFORMANCE OF ASSISTANT SECRETARY FUNCTIONS PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by an Assistant Secretary of the Department may continue to perform such functions until such functions are assigned to an individual appointed under this Act as an Assistant Secretary of the Department.

SEC. 5. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Veterans Affairs such number of Deputy Assistant Secretaries, not exceeding 18, as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) MINIMUM NUMBER OF DEPUTY ASSISTANT SECRETARIES WITH CONTINUOUS SERVICE IN CIVIL SERVICE.—(1) At least two-thirds of the number of positions established under subsection (a) and filled under subsection (b) shall be filled by individuals who have at least 5 years of continuous service in the Federal civil service in the executive branch immediately preceding their appointment under subsection (b) as a Deputy Assistant Secretary.

(2) For purposes of determining the continuous service of an individual pursuant to paragraph (1), there shall not be included any service by such individual in a position—

(A) of a confidential, policy-determining, policy-making, or policy-advocating character;

(B) in which such individual served as a noncareer appointee in the Senior Executive Service, as such term is defined in section 3132(a)(7) of title 5, United States Code; or

(C) to which such individual was appointed by the President, with or without the advice and consent of the Senate.

SEC. 6. VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION.

The establishment within the Veterans' Administration known as the Department of Medicine and Surgery is hereby redesignated as the Veterans Health Services and Research Administration of the Department of Veterans Affairs.

SEC. 7. VETERANS BENEFITS ADMINISTRATION.

The establishment within the Veterans' Administration known as the Department of Veterans' Benefits is hereby redesignated as the Veterans Benefits Administration of the Department of Veterans Affairs. The primary function of the Veterans Benefits Administration shall be to administer nonmedical benefits programs which provide assistance to veterans, their dependents, and their survivors.

SEC. 8. OFFICE OF THE GENERAL COUNSEL.

(a) IN GENERAL.—There shall be in the Department of Veterans Affairs the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

(b) CONTINUATION OF SERVICE OF GENERAL COUNSEL.—The individual serving on the effective date of this Act as the General Counsel of the Veterans' Administration may act as the General Counsel of the Department of Veterans Affairs until a person is appointed under this Act to that office.

SEC. 9. OFFICE OF THE INSPECTOR GENERAL.

(a) REDESIGNATION.—The Office of Inspector General of the Veterans' Administration, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of Veterans Affairs.

(b) STAFF LEVEL.—(1) The Secretary shall provide for not less than 40 full-time positions in the Office of Inspector General in addition to the number of such positions in that office on the effective date of this Act.

(2) Of the number of additional full-time positions in the Office of Inspector General required by paragraph (1), the Secretary shall provide for one-half by not later than September 30, 1990, and shall provide for the remainder by not later than September 30, 1991.

(3) The President shall include in the budget transmitted to the Congress for each fiscal year after fiscal year 1989 pursuant to section 1105 of title 31, United States Code, an estimate of the amount for the Office of Inspector General that is sufficient to provide for not less than the number of full-time positions in that office on the effective date of this Act and the additional number of such positions required by paragraph (1) to be provided for by the Secretary.

SEC. 10. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Veterans' Administration—

(1) to the Administrator of Veterans' Affairs shall be deemed to refer to the Secretary of Veterans Affairs;

(2) to the Veterans' Administration shall be deemed to refer to the Department of Veterans Affairs;

(3) to the Deputy Administrator of Veterans' Affairs shall be deemed to refer to the Deputy Secretary of Veterans Affairs;

(4) to the Chief Medical Director of the Veterans' Administration shall be deemed to refer to the Chief Medical Director of the Department of Veterans Affairs;

(5) to the Department of Medicine and Surgery of the Veterans' Administration shall be deemed to refer to the Veterans Health Services and Research Administration of the Department of Veterans Affairs;

(6) to the Chief Benefits Director of the Veterans' Administration shall be deemed to refer to the Chief Benefits Director of the Department of Veterans Affairs;

(7) to the Department of Veterans' Benefits of the Veterans' Administration shall be deemed to refer to the Veterans Benefits Administration of the Department of Veterans Affairs;

(8) to the Chief Memorial Affairs Director of the Veterans Administration shall be

deemed to refer to the Director of the National Cemetery System of the Department of Veterans Affairs; and

(9) to the Department of Memorial Affairs of the Veterans Administration shall be deemed to refer to the National Cemetery System of the Department of Veterans Affairs.

SEC. 11. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of Veterans' Affairs, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Veterans' Administration; and

(2) which are in effect on the effective date of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending before the Veterans' Administration at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Veterans' Administration, or by or against any individual in the official capacity of such individual as an officer of the Veterans' Administration, shall abate by reason of the enactment of this Act.

(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Veterans' Administration shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department of Veterans Affairs.

(f) COMPENSATION FOR CONTINUED SERVICE.—Any person—

(1) who acts as Secretary or Deputy Secretary of the Department of Veterans Affairs under section 3(e);

(2) who continues to serve as Chief Medical Director or Chief Benefits Director of such department under section 3(f) or (g), respectively;

(3) who acts as the Director of the National Cemetery System under section 3(h); or

(4) who acts as General Counsel of the Department of Veterans Affairs under section 8(b);

after the effective date of this Act and before the first appointment of a person to such position after such date shall continue to be compensated for so serving or acting at the rate at which such person was compensated before the effective date of this Act.

SEC. 12. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) LIMITATION ON NUMBER OF NONCAREER SENIOR EXECUTIVES.—(1) Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department of Veterans Affairs which are filled by noncareer appointees in any fiscal year may not at any time exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions in the Department during the preceding fiscal year.

(2) For purposes of this subsection, the average number of senior executives employed in Senior Executive Service positions in the Department during a fiscal year shall be equal to 25 percent of the sum of the total number of senior executives employed in Senior Executive Service positions in the Department on the last day of each quarter of such fiscal year.

(b) LIMITATION ON NUMBER OF SCHEDULE C EMPLOYEES.—The number of positions in the Department of Veterans Affairs which may be excepted from the competitive service, on a temporary or permanent basis, because of their confidential or policy-determining character may not at any time exceed the equivalent of 15 positions.

(c) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—(1) Political affiliation or activity may not be taken into account in connection with the appointment of any person to any position in or to perform any service for the Department of Veterans Affairs, or in the assignment or advancement of any employee in the Department.

(2) Paragraph (1) shall not apply to the appointment of any person by the President under this Act, other than the appointment of the Chief Medical Director, the Chief Benefits Director, and the Inspector General of the Department of Veterans Affairs.

SEC. 13. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Veterans Affairs".

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Veterans Affairs.".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Secretary of Veterans Affairs.".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Deputy Secretary of Veterans Affairs".

(e) COMPENSATION, LEVEL III.—Section 5314 of title 5, United States Code, is amended—

(1) by striking out "Deputy Administrator of Veterans' Affairs."; and

(2) by adding at the end thereof the following:

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs.".

(f) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Inspector General, Veterans' Administration" and inserting in lieu thereof "Inspector General, Department of Veterans Affairs"; and

(2) by adding at the end thereof the following:

"Assistant Secretaries, Department of Veterans Affairs (6).

"General Counsel, Department of Veterans Affairs.

"Director of the National Cemetery System.".

(g) COMPENSATION, LEVEL V.—Section 5316 of title 5, United States Code, is amended—

(1) by striking out "Associate Deputy Administrator of Veterans' Affairs.";

(2) by striking out "Chief Benefits Director, Veterans' Administration.";

(3) by striking out "General Counsel of the Veterans' Administration."; and

(4) by striking out "Director, National Cemetery System, Veterans' Administration.".

(h) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 2(1)—

(A) by inserting "the Department of Veterans Affairs," after "Transportation,";

(B) by striking out "the Veterans' Administration,";

(2) in section 11(1)—

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or Veterans Affairs,";

(B) by striking out "Small Business, or Veterans' Affairs" and inserting in lieu thereof "or Small Business"; and

(3) in section 11(2)—

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or Veterans Affairs,"; and

(B) by striking out "the United States Information Agency or the Veterans' Administration" and inserting in lieu thereof "or the United States Information Agency".

(i) NATIONAL CEMETERY SYSTEM.—Section 1000 of title 38, United States Code, is amended in subsection (a) by striking out the second sentence and inserting in lieu thereof the following: "Such system shall be headed by the Director of the National Cemetery System, who shall perform such functions as may be assigned by the Secretary.".

SEC. 14. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the appropriate committees of the Congress, the Secretary of Veterans Affairs shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to title 38, United States Code, and to other provisions of law, which reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the date of enactment of this Act.

SEC. 15. ADMINISTRATIVE REORGANIZATIONS.

(a) MODIFICATIONS OF COVERAGE.—Section 210(b)(2) of title 38, United States Code, is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) An administrative reorganization described in this subparagraph is an administrative reorganization of—

"(i) a covered field office or facility which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

"(I) by 10 percent or more, or

"(II) by a percent which, when added to the percent reduction made in the number of

such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 15 percent or more; or

"(ii) a covered Central Office unit which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such unit—

"(I) by 25 percent or more, or

"(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such unit during the preceding fiscal year, is 30 percent or more.";

(2) in subparagraph (C)—

(A) by striking out "(C) For" and inserting in lieu thereof "(D) For";

(B) by redesignating division (iii) as division (iv); and

(C) by striking out division (ii) and inserting in lieu thereof the following new divisions:

"(ii) The term 'covered Central Office unit' means an office in the Veterans' Administration's Central Office that is the permanent duty station for 100 or more employees.

"(iii) The term 'covered field office or facility' means a Veterans' Administration office or facility outside the Veterans' Administration Central Office that is the permanent duty station for 25 or more employees or that is a free-standing outpatient clinic."; and

(3) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) Not less than 30 days before the date on which the implementation of any reorganization described in this subparagraph is to begin, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a notification regarding the reorganization. This subparagraph applies to the reorganization of any unit of the Central Office of the Veterans' Administration that is the duty station for more than 25 but less than 100 employees if the reorganization involves a reduction in any fiscal year in the number of full-time equivalent employees with permanent duty station in such unit—

"(i) by 10 percent or more, or

"(ii) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty station in such unit during the preceding fiscal year, is 15 percent or more.".

(b) INAPPLICABILITY OF RESTRICTIONS.—Section 210(b) of title 38, United States Code (as amended by subsection (a)), shall not apply to a reorganization of a unit of the Central Office of the Department of Veterans' Affairs if the reorganization—

(1) is necessary in order to carry out the provisions of or amendments made by this Act; and

(2) is initiated within 6 months after the effective date of this Act.

(c) CONSTRUCTION.—References to the Administrator of Veterans' Affairs and the Veterans' Administration are used in the amendments made by subsection (a) in order to maintain conformity with the references appearing in the provisions of section 210 of title 38, United States Code, that are not amended by subsection (a). The references appearing in such amendments are subject to the reference rules provided in section 10 of this Act.

SEC. 16. SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS.

The authority to make payments or to enter into other obligations under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

SEC. 17. NATIONAL COMMISSION ON EXECUTIVE ORGANIZATION.

(a) ESTABLISHMENT.—(1) Within 30 days after the effective date of this Act, the President shall make a determination as to whether the national interest would be served by the establishment of a commission to review the structural organization of the executive branch of the Federal Government. If the President makes a determination that such establishment is in the national interest, the President shall transmit to the Congress written notification of his intent to establish the National Commission on Executive Organization under this section.

(2) If the President fails to transmit notification under paragraph (1), this section shall cease to be effective 30 days after the effective date of this Act.

(b) MEMBERSHIP OF THE COMMISSION.—A commission established under this section shall be composed of 16 members appointed not later than 90 days after the effective date of this Act. The members shall be appointed as follows:

(1) Six citizens of the United States appointed by the President, one of whom shall be designated by the President to be the Chairman of the Commission. Not more than four of the members appointed by the President may be from the same political party as the President.

(2) Two members of the Senate and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(3) One Member of the Senate and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(4) Two members of the House of Representatives and one citizen of the United States appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(5) One Member of the House of Representatives and one citizen of the United States appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(c) RESTRICTIONS ON PAY AND ALLOWANCES.—(1) Except as provided in paragraph (2), members of the Commission shall receive no pay, allowances, or benefits by reason of service on the Commission.

(2) Members of the Commission appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the Federal Government.

(d) FUNCTIONS OF COMMISSION.—The Commission shall examine and make recommendations with respect to—

(1) criteria for use by the President and Congress in evaluating proposals for changes in the structure of the executive branch of the Federal Government, including criteria for use by the President and Congress in evaluating and overseeing Government-sponsored enterprises and Government corporations;

(2) the organization of the executive branch, including the number of departments and the organizational structure of each such department, the advisability of reorganizing or abolishing any such department, and the advisability of establishing any new executive department;

(3) the most effective and practicable structure of the Executive Office of the President for conducting oversight of the executive branch, and criteria for use by such Office in evaluating and overseeing the performance of the executive branch; and

(4) the most effective and practicable structure of the President's cabinet and means of operation of such cabinet, including recommendations concerning the number, composition, and duties of the members of such cabinet.

(e) REPORT.—(1) Not later than 12 months after the completion of appointment of the members of the Commission, the Commission shall submit to the President, the Senate, and the House of Representatives a report which contains a detailed statement of the recommendations of the Commission.

(2) The date on which the report is due may be extended to such date as the President may prescribe in an Executive order, except that such date may not be later than six months after the date on which such report is otherwise due under paragraph (1).

(f) POWERS OF COMMISSION.—(1) The Commission may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places, as the Commission considers appropriate.

(2) The Commission may adopt such rules and regulations as may be necessary to establish procedures and to govern the manner of the operation, organization, and personnel of the Commission.

(3)(A) The Commission may request from the head of any department, agency, or other instrumentality of the Federal Government such information as the Commission may require for the purpose of carrying out this section. The head of such department, agency, or instrumentality shall, to the extent otherwise permitted by law, furnish such information to the Commission upon request made by the Chairman.

(B) Upon request of the Chairman of the Commission, the head of any department, agency, or other instrumentality of the Federal Government shall, to the extent possible and subject to the discretion of such head—

(i) make any of the facilities and services of such department, agency, or instrumentality available to the Commission; and

(ii) detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out the duties of the Commission under this section.

(4) The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(5) The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the duties of the Commission under this section.

(6) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may appoint, terminate, and fix the pay of an Executive Director and of such additional staff as the Chairman considers appropriate to assist the Commission. The Chairman may fix the pay of personnel appointed under this paragraph without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to the

number or classification of employees and to rates of pay), the provisions of such title governing appointments in the competitive service, and any other similar provision of law; except that no rate of pay fixed under this paragraph may exceed a rate equal to the rate of pay payable for grade GS-18 of the General Schedule under section 5332 of such title.

(g) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(h) TERMINATION OF COMMISSION.—The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under subsection (e).

(i) PREPARATION FOR THE COMMISSION.—Not later than 90 days after the effective date of this Act, the Comptroller General of the United States, the Director of the Congressional Research Service, the Director of the Congressional Budget Office, and the Director of the Office of Technology Assessment shall each submit to a commission established under this section an index to and synopses of materials of the organization of the official that such official considers useful to the Commission. Subject to laws governing the disclosure of classified or otherwise restricted information, such materials may include reports, analyses, recommendations, and results of research of such organization.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission not more than $1,500,000 for carrying out this section.

SEC. 18. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on March 15, 1989.

(b) APPOINTMENT OF SECRETARY.—Notwithstanding any other provision of law or of this Act, the President may, any time after January 21, 1989, appoint an individual to serve as Secretary of the Department of Veterans Affairs.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill insert the following: "An Act to establish the Veterans' Administration as an executive department, and for other purposes.".

And the Senate agree to the same.

JACK BROOKS,
JOHN CONYERS, JR.,
TED WEISS,
STEPHEN L. NEAL,
BARNEY FRANK,
G.V. MONTGOMERY,
DON EDWARDS,
FRANK HORTON,
ROBERT S. WALKER,
JIM LIGHTFOOT,
JERRY SOLOMON,
Managers on the Part of the House.

JOHN GLENN,
JIM SASSER,
CARL LEVIN,
GEORGE MITCHELL,
WILLIAM V. ROTH, JR.,
TED STEVENS,
JOHN HEINZ,
From the Committee on Veterans' Affairs.

ALAN CRANSTON,
FRANK H. MURKOWSKI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the bill (H.R. 3471) to establish the Veterans' Administration as an executive department, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in this conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, structural changes, conforming changes made necessary by amendments reached by the conferees, and minor drafting and clarifying changes.

SECTION 2. ESTABLISHMENT OF VETERANS' ADMINISTRATION AS AN EXECUTIVE DEPARTMENT

House bill

The House bill redesignates the Veterans' Administration as the Department of Veterans Affairs under the supervision and authority of the Secretary.

Senate amendment

The Senate amendment also redesignates the Veterans' Administration as the Department of Veterans Affairs under the supervision and authority of the Secretary, but limits the Secretary's authority to delegate and assign duties to others and designates the personnel who may compose the Office of the Secretary.

Conference agreement

The Senate recedes from its disagreement to the House bill.

It is the intent of the conferees that the Secretary not create a chief of staff with line supervisory responsibilities over persons appointed by the President with the advice and consent of the Senate. Further, the conferees agree that any temporary vacancy in the positions of Secretary or Deputy Secretary caused by the transition to cabinet status be covered by the time limitations in Section 3348 of Title 5, United States Code.

SECTION 3. PRINCIPAL OFFICERS

House bill

The House bill provides for a Deputy Secretary, a Chief Medical Director who shall be responsible to the Secretary for the operations of the Veterans Health Services Administration, and a Chief Benefits Director who shall be responsible to the Secretary for the operations of the Veterans Benefits Administration, and provides that the Chief Medical Director and the Chief Benefits Director shall be selected without regard to political affiliation and solely on the basis of criteria specified in the bill. The bill also requires the Secretary to designate the order in which officials of the Department would act for and perform the functions of the Secretary in case of disability or absence of both the Secretary and Deputy Secretary.

The House bill provides that the individuals serving as Administrator and Deputy Administrator of Veterans' Affairs on the date of enactment of this Act may act as Secretary and Deputy Secretary of the Department, respectively, until an individual is appointed to the office concerned.

Senate amendment

The Senate amendment also provides for a Deputy Secretary, Chief Medical Director, and Chief Benefits Director each directly responsible to the Secretary. The Senate amendment specifies additional criteria for the appointment of both the Chief Benefits Director and the Chief Medical Director and requires the Secretary of the Department to establish a commission to recommend to the President three individuals for each vacancy whenever a vacancy occurs in either the chief Medical Director or Chief Benefits Director position. The Commission would recommend to the President three individuals for each vacancy. The composition of the Commission to be established for each position is specified in the Senate amendment.

The Senate amendment provides for two Deputy Chief Benefits Directors, one of whom would perform the Memorial Affairs functions, which the Senate amendment places under the Chief Benefits Director. In addition, the Senate amendment provides for not to exceed six Assistant Chief Benefits Directors, to be appointed by the Chief Benefits Director after consultation with the Secretary.

Conference agreement

The House recedes from its disagreement to the Senate amendment, which deletes the provision authorizing the Secretary to designate the order in which officials would perform the functions of the Secretary in case of disability or absence of the Secretary. This provision of the House bill is superseded by the enactment of Public Law 100-398, which establishes the order of succession for executive departments and agencies.

The conferees agree to follow the Senate amendment with regard to the additional criteria for the appointment of the Chief Medical Director and the Chief Benefits Director. The conferees also agree to follow the Senate amendment with regard to the establishment of a Commission to recommend individuals to fill vacancies in the Chief Benefits Director and the Chief Medical Director positions. The conferees agree to reduce the number of members of such Commission to not to exceed 10. In addition, the conferees agree to specify that each commission established to recommend individuals for the position of Chief Medical Director shall include the Chairman of the Special Medical Advisory Group established under section 4112 of title 38, United States Code, and each commission established to recommend individuals for the position of Chief Benefits Director shall include the Chairman of the Veterans' Advisory Committee on Education formed under section 1792 of title 38, United States Code.

The conferees agree to follow the House bill with regard to the Deputy Chief Benefits Director positions and the Assistant Chief Benefits Director positions by not providing statutory authority for or restrictions concerning such positions.

The conferees agree to provide for a Director of the National Cemetery System who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at Executive Level IV. It is the intent of the conferees that the Director of the National Cemetery System report to the Office of the Secretary.

The conferees follow the House bill with regard to the individuals serving as Administrator and Deputy Administrator acting as Secretary and Deputy Secretary, respectively, until a Secretary and Deputy Secretary are appointed.

The conferees agree that, should the Administrator or Deputy Administrator act as Secretary or Deputy Secretary, pursuant to Section 3(e), or the Director, National Cemetery System act as Director of the National Cemetery System, pursuant to section 3(h), or the Chief Medical Director, the Chief Benefits Director or the General Counsel continue to serve in their respective capacities in the Department of Veterans Affairs, pursuant to section 3(f), 3(g), or 8(b), these individuals shall continue to be compensated at the rate by which they were compensated prior to enactment of this Act.

SECTION 4. ASSISTANT SECRETARIES

House bill

The House provides for 8 Assistant Secretaries, one of whom is to perform functions regarding the National Cemetery System and State cemetery grant program, and delineates other functions to be assigned by the Secretary to the Assistant Secretaries.

Senate amendment

The Senate amendment establishes not to exceed four Assistant Secretaries. The Assistant Secretary whose functions include budgetary and financial functions is to be designated the Chief Financial Officer of the Department. The Senate amendment specifies other functions of the Chief Financial Officer. In addition, the Senate amendment deletes from the functions specified for performance by the Assistant Secretaries in the House bill the functions regarding congressional affairs.

Conference agreement

The conferees agree to establish not more than six Assistant Secretaries and to follow the Senate amendment with regard to the functions to be performed by the Assistant Secretaries. The conferees agree to follow the Senate amendment with regard to designation of the Assistant Secretary whose functions include budgetary and financial functions as the Chief Financial Officer of the Department. The conferees agree that the duties and responsibilities assigned to this position are not intended to require or to encourage the compilation of agency financial statements. In addition, the conferees agree that one of the Assistant Secretaries, whose functions include information management, shall be designated as Chief Information Resources Officer of the Department. This individual will perform functions specified in the conference report.

SECTION 5. DEPUTY ASSISTANT SECRETARIES

House bill

The House bill does not provide for Deputy Assistant Secretaries.

Senate amendment

The Senate amendment provides for up to 15 Deputy Assistant Secretaries to be appointed by the Secretary to perform functions assigned by the Secretary. At least two-thirds of the Deputy Assistant Secretary positions that are filled shall be in the Career-reserved service. Certain specified functions assigned to an Assistant Secretary may be performed by a Deputy Assistant Secretary only if such Deputy Assistant Secretary is in a Career-reserved service position.

Conference agreement

The conferees agree to follow the Senate amendment with respect to providing for Deputy Assistant Secretary positions. The conferees agree to set the number of such positions at not to exceed 18 and to require that two-thirds of the number of positions filled shall be filled by individuals who have at least 5 years continuous service in the Federal civil service in the executive branch immediately preceding their appointment as a Deputy Assistant Secretary. The position or positions held during that service shall not have been positions of a confidential or policy determining character that have been exempted from the competitive service on that basis, positions in which the individual served as a noncareer appointee in the Senior Executive Service, or positions to which such individual was appointed by the President, with or without the advice and consent of the Senate. The conferees agree not to limit the functions required to be performed by Assistant Secretaries that may be assigned to the Deputy Assistant Secretaries. The conferees do not express a view as to how functions should be assigned among the Deputy Assistant Secretaries.

SECTION 7. VETERANS BENEFITS ADMINISTRATION

House bill

The House bill redesignates the Department of Veterans' Benefits as the Veterans Benefits Administration and requires that its programs be administered through at least one office in every state.

Senate amendment

The Senate amendment contains the same redesignation but does not contain the requirement for the administration of the benefits programs through at least one office in every state.

Conference agreement

The House recedes to the Senate with respect to the offices required to administer the benefits programs.

SECTION 9. OFFICE OF THE INSPECTOR GENERAL

House bill

The House bill redesignates the Office of Inspector General of the Veterans' Administration as the Office of Inspector General of the Department of Veterans Affairs.

Senate amendment

In addition to the redesignation, the Senate amendment provides an increase in the staff level of the Office of Inspector General by requiring for that office not less than one full-time position for every 367 full-time positions in the Department of Veterans Affairs. The expansion of staff is to be phased in during Fiscal Years 1990, 1991, and 1992.

Conference agreement

The conferees agree to provide for an increase in the staff level of the Office of Inspector General of an additional 40 full-time positions to be phased on one half in Fiscal Year 1990 and one half in Fiscal year 1991.

The conferees direct the Comptroller General of the United States (1) to conduct a review of the resources available to the Office of Inspector General of the Department of Veterans Affairs, (2) to include as part of such review an analysis of the resources needed by such office to carry out the mandates of the Inspector General Act of 1978, (3) to include in the report issued as a result of such review recommendations regarding the resources required by the Office of Inspector General to effectively carry out its statutory responsibilities, and (4) to include in detail in such recommendations the resources required for the conduct of specifically described functions in such office. The conferees intend that this direction not in any way be construed to require or to encourage the use of Inspector General personnel or other Inspector General resources to audit agency financial statements.

The Secretary of Veterans Affairs, in the Secretary's response to the recommendations in the report of the Comptroller General, is directed by the conferees to include in such response a plan of implementation with regard to such recommendations.

SECTION 12. MISCELLANEOUS EMPLOYMENT RESTRICTIONS

House bill

The House bill contains no miscellaneous employment restrictions.

Senate amendment

The Senate amendment provides for temporary details to fill senior staff positions. In addition, the Senate amendent would limit the number of Senior Executive Service positions in the Department of Veterans Affairs which are filled by noncareer appointees in any fiscal year to not to exceed 5 percent of the total number of senior executives employed in Senior Executive Service positions in the Department at the end of the preceding fiscal year. The Senate amendment also limits the number of positions which may be excepted from the competitive service to not more than 15 full-time positions and prohibits the consideration of political affiliation or political qualification in connection with the appointment, assignment or advancement of any employee in the Department or the appointment of any person to perform any service for the Department.

Conference agreement

The conferees agree to follow the House bill by not providing for temporary details to fill senior staff positions. The conferees agree to follow the Senate amendment limitation on the number of noncareer senior executives employed in Senior Executive Service positions. The conferees also agree to follow the Senate amendment with regard to the limitation on the number of positions which may be excepted from the competitive service. Further, the conferees agree to follow the Senate amendment to prohibit the taking into consideration of political affiliation or activity in connection with the appointment, assignment or advancement of any employee in the Department, or the appointment of any person to perform any service for the Department, exempting Presidential appointees from such prohibition (with the exception of the Chief Medical Director, the Chief Benefits Director, and the Inspector General).

SECTION 15. ADMINISTRATIVE REORGANIZATIONS

House bill

The House bill contains no provisions amending Section 210(b)(2) of title 38, United States Code.

Senate amendment

The Senate amendment amends Section 210(b)(2) of title 38, United States Code to provide, in lieu of the more restrictive provision of that section applicable to other reorganizations, that the Committees on Veterans' Affairs of the Senate and the House of Representatives be notified of any significant reorganizations, as defined in the amendment, in field offices and in the central office of the Department of Veterans Affairs not less than 30 days before the date

on which the implementation of any such reorganization is to begin.

Conference agreement

The conferees agree to follow the Senate amendment with regard to amending Section 210(b)(2) of title 38, United States Code.

SECTION 17. NATIONAL COMMISSION ON EXECUTIVE ORGANIZATION

House bill

The House bill contains no provisions to establish a commission to study the organization of the executive branch.

Senate amendment

The Senate amendment establishes a National Commission on Executive Organization and Management authorized to determine matters concerning the most appropriate organization of the executive branch, including the departments thereof, the Executive Offfice of the President and the president's cabinet, as well as to determine matters concerning appropriate management systems and procedures. The Commission would be required to report its determinations within 18 months after its members are appointed. The Comptroller General of the United States, the Director of the Congressional Research Service, the Director of the Congressional Budget Office, and the Director of the Office of Technology Assessment are required to submit specified materials to the Commission not later than 120 days after the effective date of this Act. In addition, the Senate amendment contains provisions which would require implementation of the determinations made by the Commission. Expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury, and may not exceed $1,500,000.

Conference agreement

The conferees agree to follow the Senate amendment with certain modifications with respect to a commission to study government organization.

The conferees agree to require the president to notify the Congress with 30 days after the effective date of this Act of his determination as to whether the establishment of a National Commission on Executive Organization to review the structural organization of the executive branch of the Federal Government is in the national interest. The conferees agree that if the President fails to so notify the Congress within 30 days after the effective date, this section shall cease to be effective.

The conferees agree to require that the Commission examine and make recommendations with respect to criteria for use in the evaluation of proposals to change the structure of the executive branch, the organization of the executive branch, the structure of the Executive Office of the Presdient, and the President's cabinet.

The conferees agree to require the Comptroller General of the United States, the Director of the Congressional Research Service, the Director of the Congressional Budget Office, and the Director of the Office of Technology Assessment to submit specified materials to the Commission within 90 days after the effective date of this Act and to require the Commission to issue its report within 12 months after completion of appointment of the members of the Commission.

The conferees agree to authorize to be appropriated to the Commission not more than $1,500,000 for carrying out this section.

SECTION 18. EFFECTIVE DATE

House bill

The House bill provides that the provisions of this Act shall take effect on such date as the president prescribes by Executive order, but not later than six months after the date of enactment of this Act, and provides for the appointment of any of the officers provided for in this Act at any time after the date of enactment of this Act.

Senate amendment

The Senate amendment provides that the provisions of this Act shall take effect on any date set by the President in an Executive Order during the 6-month period beginning on January 21, 1989, but not later than July 21, 1989.

Conference agreement

The conferees agree that the effective date of this Act is March 15, 1989. Further, the conferees agree to authorize the President to appoint an individual as Secretary of the Department any time after January 21, 1989.

OTHER PROVISIONS

The Senate amendment contains a provision requiring that the Secretary of Veterans Affairs submit annual reports for five years after enactment of this Act. The annual reports would contain an estimate of the additional cost resulting from the implementation of this act over the cost of continuing the operation of the Veterans' Administration as an independent establishment in the executive branch.

The Senate amendment also contains a provision amending title II of the Treasury, Postal Service and General Government Appropriations Act, 1988 (as contained in section 101(m) of Public law 100-202 (101 Stat. 1329-400).

The House bill has no such provisions.

Conference agreement

The conferees agree to follow the House bill as to these provisions.

JACK BROOKS,
JOHN CONYERS, Jr.,
TED WEISS,
STEPHEN L. NEAL,
BARNEY FRANK,
G.V. MONTGOMERY,
DON EDWARDS,
FRANK HORTON,
ROBERT S. WALKER,
JIM LIGHTFOOT,
JERRY SOLOMON,
Managers of the Part of the House.

JOHN GLENN,
JIM SASSER,
CARL LEVIN,
GEORGE MITCHELL,
WILLIAM V. ROTH, Jr.,
TED STEVENS,
JOHN HEINZ,
From the Committee on Veterans' Affairs:
ALAN CRANSTON,
FRANK H. MURKOWSKI,
Managers on the Part of the Senate.

PERSONAL EXPLANATION

Mr. TRAXLER. Mr. Speaker. I rise today to inform the House that on the vote agreeing to the conference report on H.R. 1720, Family Welfare Reform Act (roll No. 373), I was recorded as having voted in the negative. I had intended to vote in support of the conference report.

I ask unanimous consent that this statement appear in the permanent RECORD immediately following the vote.

The SPEAKER pro tempore. Is there objectoin to the request of the gentleman from Michigan?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind Members that the first rollcall vote on House Resolution 562, called up by the gentleman from California [Mr. EDWARDS], will precede the 9 suspension votes. That vote will be a 15-minute vote, and the postponed suspension votes will be 5-minute votes.

Pursuant to clause 5, rule I, the Chair will now put the question on House Resolution 562 and then on 9 motions to suspend the rules on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

House Resolution 562, by the yeas and nays; H.R. 5288, by the yeas and nays; H.R. 5408, by the yeas and nays; H.R. 4857, by the yeas and nays; House Concurrent Resolution 351, by the yeas and nays; S. 496, by the yeas and nays; H.R. 5052, by the yeas and nays; H.R. 5291, by the yeas and nays; H.R. 5050, by the yeas and nays; and S. 437, by the yeas and nays.

Debate on other motions to suspend the rules will follow these votes.

AUTHORIZING USE DEPOSITIONS IN CONNECTION WITH AN IMPEACHMENT INQUIRY OF THE COMMITTEE ON THE JUDICIARY

The SPEAKER pro tempore. The pending business is the vote on House Resolution 562.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution (H. Res. 562) on which the yeas and nays are ordered.

The Chair would remind Members this is a 15-minute vote and the subsequent votes on the suspensions will be 5 minutes each.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 30, as follows:

[Roll No. 377]

YEAS—401

Ackerman	Armey	Barton
Akaka	Aspin	Bateman
Alexander	Atkins	Bates
Anderson	AuCoin	Beilenson
Andrews	Badham	Bennett
Annunzio	Baker	Bentley
Anthony	Ballenger	Bereuter
Applegate	Barnard	Berman
Archer	Bartlett	Bevill

Bilbray
Bilirakis
Billey
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—30

Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hayes (IL)
Hefner
Holloway
Jacobs
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss

□ 1838

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. CONTE. Mr. Speaker, I had a special order reserved for 60 minutes for tonight for my good friend, ED BOLAND.

Because of the legislative schedule, I ask unanimous consent to cancel my 60-minute special order for tonight and ask for 60 minutes on October 5, 1988.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the nine motions to suspend the rules on which the Chair has postponed further proceedings.

VETERANS' JUDICIAL REVIEW ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5288, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5288, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 0, not voting 31, as follows:

[Roll No. 378]

YEAS—400

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Billey
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd

Lujan	Penny	Smith, Robert (NH)
Luken, Thomas	Pepper	Smith, Robert (OR)
Lukens, Donald	Perkins	Snowe
Madigan	Petri	Solarz
Manton	Pickett	Solomon
Markey	Pickle	Spence
Marlenee	Porter	Spratt
Martin (IL)	Price	St Germain
Martin (NY)	Pursell	Staggers
Martinez	Quillen	Stallings
Matsui	Rahall	Stangeland
Mavroules	Rangel	Stark
Mazzoli	Ravenel	Stenholm
McCandless	Ray	Stokes
McCloskey	Regula	Stratton
McCrery	Rhodes	Studds
McCurdy	Richardson	Stump
McDade	Ridge	Sundquist
McGrath	Rinaldo	Swift
McHugh	Ritter	Swindall
McMillan (NC)	Roberts	Synar
McMillen (MD)	Robinson	Tallon
Meyers	Rodino	Tauke
Mfume	Roe	Tauzin
Mica	Rogers	Taylor
Michel	Rose	Thomas (CA)
Miller (CA)	Rostenkowski	Thomas (GA)
Miller (OH)	Roth	Torres
Miller (WA)	Roukema	Torricelli
Mineta	Rowland (CT)	Towns
Moakley	Rowland (GA)	Traficant
Molinari	Roybal	Traxler
Mollohan	Russo	Udall
Montgomery	Sabo	Upton
Moody	Saiki	Valentine
Moorhead	Savage	Vander Jagt
Morella	Sawyer	Vento
Morrison (WA)	Saxton	Visclosky
Mrazek	Schaefer	Volkmer
Murphy	Scheuer	Vucanovich
Murtha	Schneider	Walgren
Myers	Schroeder	Walker
Nagle	Schuette	Watkins
Natcher	Schulze	Waxman
Neal	Schumer	Weber
Nelson	Sensenbrenner	Weldon
Nichols	Sharp	Wheat
Nielson	Shaw	Whittaker
Nowak	Shays	Whitten
Oakar	Shumway	Williams
Oberstar	Shuster	Wilson
Obey	Sikorski	Wise
Olin	Sisisky	Wolf
Ortiz	Skaggs	Wolpe
Owens (NY)	Skeen	Wortley
Owens (UT)	Skelton	Wyden
Oxley	Slattery	Wylie
Packard	Slaughter (VA)	Yates
Panetta	Smith (FL)	Yatron
Parris	Smith (IA)	Young (AK)
Pashayan	Smith (NE)	Young (FL)
Patterson	Smith (NJ)	
Payne	Smith (TX)	
Pease	Smith, Denny (OR)	
Pelosi		

NAYS—0

NOT VOTING—31

Boulter	Hefner	Lungren
Clay	Holloway	Mack
Courter	Kasich	MacKay
Donnelly	Kemp	McCollum
Dowdy	Kleczka	McEwen
Eckart	Levin (MI)	Morrison (CT)
Espy	Levine (CA)	Slaughter (NY)
Ford (MI)	Lewis (CA)	Sweeney
Ford (TN)	Lott	Weiss
Gregg	Lowery (CA)	
Hayes (IL)	Lowry (WA)	

□ 1847

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The results of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of the Senate bill (S. 11) to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 11

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Administration Adjudication Procedure and Judicial Review Act".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' ADMINISTRATION ADJUDICATION

SEC. 101. (a) Chapter 51 is amended by adding at the end of subchapter I the following new section:

"§ 3007. Burden of proof; benefit of the doubt

"(a) Except when otherwise provided by the Administrator in accordance with the provisions of this title, a claimant for benefits under laws administered by the Veterans' Administration shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Administrator shall assist a claimant in developing the facts pertinent to his or her claim.

"(b) When, after consideration of all evidence and material of record in any proceeding before the Veterans' Administration involving a claim for benefits under laws administered by the Veterans' Administration, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of such claim, the benefit of the doubt in resolving each such issue will be given to the claimant, but nothing in this section shall be construed as shifting from a claimant to the Administrator the burden described in subsection (a) of this section.".

(b)(1) The table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part IV of such title are each amended in the item relating to chapter 51 by striking out "Applications" and inserting in lieu thereof "Claims".

(2) The heading of such chapter is amended to read as follows:

"CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS".

(c)(1) The table of sections at the beginning of such chapter is amended in the item relating to subchapter I by striking out "APPLICATIONS" and inserting in lieu thereof "CLAIMS".

(2) The heading of subchapter I of such chapter is amended to read as follows:

"SUBCHAPTER I—CLAIMS".

(d) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3006 the following new item:

"3007. Burden of proof; benefit of the doubt.".

SEC. 102. Section 3311 is amended by adding at the end the following new sentences: "Subpenas authorized under this section shall be served by any individual authorized by the Administrator by (1) delivering a copy thereof to the individual named therein, or (2) mailing a copy thereof by registered or certified mail addressed to such individual at such individual's last known dwelling place or principal place of business. A verified return by the individual so serving the subpena setting forth the manner of service, or, in the case of service by registered or certified mail, the return post office receipt therefor signed by the individual so served, shall be proof of service.".

SEC. 103. (a) Section 4001(a) is amended—

(1) by striking out "directly responsible to the Administrator" in the first sentence and inserting in lieu thereof '(hereinafter referred to as the 'Chairman')"; and

(2) by inserting before the period at the end of the second sentence "in a timely manner".

(b)(1) Section 4001(b) is amended to read as follows:

"(b)(1) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, for a term of five years. An individual may serve as Chairman for not more than three complete terms. The Chairman may be removed by the President for good cause.

"(2)(A) The members of the Board shall be appointed by the Chairman for a term of nine years. A member appointed to fill a vacancy resulting from the resignation, death, or removal of a member before the end of the term for which the original appointment was made shall serve for the remainder of the unexpired term. Members may be reappointed without limitation. The Chairman shall designate one member as Vice Chairman. Such member shall serve as Vice Chairman at the pleasure of the Chairman.

"(B) A member of the Board may be removed only by the Chairman and only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Merit Systems Protection Board. Section 554(a)(2) of title 5 shall not apply to a removal action under this subparagraph. In such a removal action, a member shall have the rights set out in section 7513(b) of title 5.".

(2) The President shall appoint a Chairman of the Board of Veterans' Appeals under section 4001(b)(1) of title 38, United States Code (as amended by paragraph (1)), not later than one year after the date of the enactment of this Act. The individual who is serving as Chairman of the Board of Veterans' Appeals on the date of the enactment of this Act may continue to serve as Chairman until a successor is appointed. If such

individual is appointed as Chairman under such section, none of the service of such individual as Chairman before the date of that appointment shall be considered for the purpose of determining the term of appointment or eligibility for reappointment under such section.

(3) Appointments of members of the Board of Veterans' Appeals under subsection (b)(2)(A) of section 4001 of title 38, United States Code (as amended by paragraph (1)), may not be made until a Chairman has been appointed under subsection (b)(1) of such section. An individual who is serving as a member of the Board on the date of the enactment of this Act may continue to serve as a member until the earlier of the date on which the individual's successor is appointed under subsection (b)(2)(A) of such section or the expiration of the 180-day period that begins on the day after the Chairman is appointed under subsection (b)(1) of such section.

(4) Notwithstanding the provision in section 4001(b)(2) of title 38, United States Code (as amended by paragraph (1)), that specifies the term for which members of the Board of Veterans' Appeals shall be appointed, of the first members appointed under such section—

(1) 21 members shall be appointed for a term of three years;

(2) 22 members shall be appointed for a term of six years; and

(3) 22 members shall be appointed for a term of nine years.

The first Vice Chairman of the Board designated under such section shall be selected from among the members appointed for terms of six years or nine years.

(5) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chairman, Board of Veterans' Appeals.".

(c) Section 4001 is further amended by adding at the end the following new subsections:

"(d) The Chairman shall submit a report to the Committees on Veterans' Affairs of the Senate and the House of Representatives, not later than December 31, 1988, and annually thereafter, on the experience of the Board during the prior fiscal year together with projections for the fiscal year in which the report is submitted and the subsequent fiscal year. Such report shall contain, as a minimum, information specifying the number of cases appealed to the Board during the prior fiscal year, the number of cases pending before the Board at the beginning and end of such fiscal year, the number of such cases which were filed during each of the 36 months preceding the then current fiscal year, the average length of time a case was before the Board between the time of the filing of an appeal and the disposition during the prior fiscal year, and the number of members of, and the professional, administrative, clerical, stenographic, and other personnel employed by, the Board at the end of the prior fiscal year. The projections for the current fiscal year and subsequent fiscal year shall include, for each such year, estimates of the number of cases to be appealed to the Board and an evaluation of the Board's ability, based on existing and projected personnel levels, to ensure timely disposition of such appeals as provided for by subsection (a) of this section.

"(e) Notwithstanding any other provision of law, no member or temporary or acting member of the Board shall be eligible for or receive, directly or indirectly, bonuses (in addition to salary) relating to service on the Board.".

SEC. 104. Section 4003 is amended to read as follows:

"§ 4003. Determinations by the Board

"(a)(1) A determination, when concurred in by the requisite number of members of a section, shall be the final decision of the Branch.

"(2) The requisite number of members of a section that must concur in a determination for it to be considered a final decision is—

"(A) for an allowance of a claim, a majority of the members of the section; or

"(B) for a denial of a claim, all members of the section.

"(b) When there is a disagreement among the members of the section in any case in which unanimity is required for a final decision, the concurrence of the Chairman with the majority of the members of such section shall constitute the final decision of the Board. The Chairman may, instead of voting, expand the size of the section for determination of that case, and the concurrence of a majority of the members of the expanded section shall constitute the final decision of the Board.

"(c) If, without the vote of a temporary member designated under section 4001(c)(1) of this title or the vote of an acting member designated under section 4002(a)(2)(A)(ii) of this title, a section would be evenly divided in the determination of any claim—

"(1) such member shall not vote; and

"(2) the Chairman shall expand, by not less than two members, the size of the section for determination of that claim.

"(d) Notwithstanding subsection (a) and (b) of this section, the Board on its own motion may correct an obvious error in the record or may reach a contrary conclusion upon the basis of additional information from the department of the Secretary concerned after notice of such additional information is furnished to the claimant and the claimant is provided an opportunity to be heard in connection with such information.".

SEC. 105. Section 4004 is amended—

(1) in subsection (a)—

(A) by striking out "involving" in the first sentence and inserting in lieu thereof "for"; and

(B) by inserting before the period at the end of the second sentence "after affording the claimant an opportunity for a hearing and shall be based exclusively on evidence and material of record in the proceeding and on applicable provisions of law";

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, when a claim is disallowed by the Board, it may not thereafter be reopened and allowed and no claim based upon the same factual basis shall be considered.

"(2) Following such a disallowance, the Board (directly or through the agency of original jurisdiction, as described in section 4005(b)(1) of this title)—

"(A) when new and material evidence is presented or secured, shall authorize the reopening of a claim and a review of the Board's former decision; and

"(B) for good cause shown, may authorize the reopening of a claim and a review of the Board's former decision.

"(3) A judicial decision under subchapter II of chapter 71 of this title, upholding, in whole or in part, the disallowance of a claim shall not diminish the Board's authority set forth in paragraph (2) of this subsection to authorize the reopening of a claim and a review of the former decision."; and

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) After reaching a decision in a case, the Board shall promptly mail notice of its decision to the claimant and the claimant's authorized representative, if any, at the last known address of the claimant and at the last known address of the claimant's authorized representative, if any. Each decision of the Board shall include—

"(1) a written statement of the Board's findings and conclusions, and reasons or bases therefor, on all material issues of fact and law and on matters of discretion presented on the record; and

"(2) an order granting appropriate relief or denying relief.".

SEC. 106. Section 4005(d) is amended—

(1) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) The claimant may not be presumed to agree with any statement of fact or law contained in the statement of the case to which the claimant does not specifically express agreement."; and

(2) in paragraph (5), by striking out "will base its decision on the entire record and".

SEC. 107. (a) Section 4009 is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 4009. Medical opinions";

and

(2) by adding at the end the following new subsections:

"(c)(1) Whenever there exists in the evidence of record in an appeal case a substantial disagreement between the substantiated findings or opinions of two physicians with respect to an issue material to the outcome of the case, the Board shall, upon the request of the claimant and after taking appropriate action to attempt to resolve the disagreement, arrange for an advisory medical opinion in accordance with the procedure prescribed in subsection (b) of this section. The claimant may appeal a denial of a request for such an opinion to the Chairman.

"(2) If the Board or the Chairman upon appeal denies a request for an advisory medical opinion, the Board, or the Chairman after the appeal, shall prepare and provide to the claimant and the claimant's authorized representative, if any, a statement setting forth the basis for the denial and, in the case of a denial of such request by the Board, a notice of the claimant's right to appeal the denial to the Chairman.

"(3) Actions of the Board under this subsection, including any such denial concurred in by the Chairman (if appealed), shall be final and conclusive, and no other official or any court of the United States shall have the power or jurisdiction to review any aspect of any such action by an action in the nature of mandamus or otherwise, the provisions of subchapter II of chapter 71 of this title to the contrary notwithstanding.

"(d) If a member of the Board receives the medical opinion of any physician relating to any appeal under consideration by such member (other than a medical opinion of a physician on the section of the Board considering such appeal) or an employee of the Board in the consideration of such appeal receives such an opinion, the Board shall furnish such opinion to the claimant and shall afford the claimant 60 days in which to submit a response to such opinion before the Board issues a final decision on the

appeal. The Board shall consider any such response and shall include in the final decision a discussion of such opinion, the response (if any), and the effect of such opinion and response on the Board's decision.".

(b) The table of sections at the beginning of chapter 71 is amended by striking out the item relating to section 4009 and inserting in lieu thereof the following:

"4009. Medical opinions.".

SEC. 108. (a) Chapter 71 is further amended by adding at the end the following new sections:

"§ 4010. Adjudication procedures

"(a) For purposes of conducting any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, the Administrator and the members of the Board may administer oaths and affirmations, examine witnesses, and receive evidence.

"(b) Any oral, documentary, or other evidence, even though inadmissible under the rules of evidence applicable to judicial proceedings, may be admitted in a hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, but the Administrator and the Chairman, under regulations which the Administrator and the Chairman shall jointly prescribe, may provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

"(c)(1) In the course of any proceeding before the Board, any party to such proceeding or such party's authorized representative shall be afforded opportunities—

"(A) to examine and, on payment of a fee prescribed pursuant to section 3302(b) of this title (not to exceed the direct cost of duplication), obtain copies of the contents of the case files and all documents and records to be used by the Veterans' Administration at such proceeding;

"(B) to present witnesses and evidence, subject only to such restrictions as may be set forth in regulations prescribed pursuant to subsection (b) of this section, as to materiality, relevance, and undue repetition;

"(C) to make oral argument and submit written contentions, in the form of a brief or similar document, on substantive and procedural issues;

"(D) to submit rebuttal evidence;

"(E) to present medical opinions and request an independent advisory medical opinion pursuant to section 4009(c) of this title; and

"(F) to serve written interrogatories on any person, including any employee of the Veterans' Administration, which interrogatories shall be answered separately and fully in writing and under oath unless written objection thereto, in whole or in part, is filed with the Chairman by the person to whom the interrogatories are directed or such person's representative.

"(2) The fee provided for in paragraph (1)(A) of this subsection may be waived by the Chairman, pursuant to regulations which the Administrator shall prescribe, on the basis of the party's inability to pay or for other good cause shown.

"(3) In the event of any objection filed under paragraph (1)(F) of this subsection, the Chairman shall, pursuant to regulations which the Chairman shall prescribe establishing standards consistent with standards for protective orders applicable in the United States District Courts, evaluate such objection and issue an order (A) directing that, within such period as the Chairman shall specify, the interrogatory or interrogatories objected to be answered as served or answered after modification, or (B) indicating that the interrogatory or interrogatories are no longer required to be answered.

"(4) If any person upon whom interrogatories are served under paragraph (1)(F) of this subsection fails to answer or fails to provide responsive answers to all of the interrogatories within 30 days after service or such additional time as the Chairman may allow, the Chairman, upon determining that the party propounding such interrogatories has shown the general relevance and reasonableness of the scope of the interrogatories, shall issue a subpena under section 3311 of this title (with enforcement of such subpena to be available under section 3313 of this title) for such person's appearance and testimony on such interrogatories at a deposition on written questions, at a location within 100 miles of where such person resides, is employed, or transacts business.

"(d)(1) A claimant may request a hearing before a traveling section of the Board. Cases shall be scheduled for hearing before such a section in the order in which the requests for hearing are received by the Board.

"(2) If a claimant makes a request for a hearing before a traveling section of the Board and, by reason of limited time for the conduct of hearings by such section at the location for the requested hearing, such claimant's appeal is not scheduled for hearing or the hearing is not conducted, the Board shall afford such claimant an opportunity to present the case to the Board in a hearing conducted by telephone or video connection before a section of the Board or in a videotape of a hearing conducted for the Board by Veterans' Administration adjudication personnel at a regional office of the Veterans' Administration. An audiotape or videotape of such hearing shall be included in the record of the appeal and considered by the Board in the same manner as recordings of testimony and documentary evidence are considered.

"(e) In the course of any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, an employee of the Veterans' Administration (including an employee of the Board of Veterans' Appeals) may at any time disqualify himself or herself, on the basis of personal bias or other cause, from adjudicating the claim. On the filing by a party in good faith of a timely and sufficient affidavit averring personal bias or other cause for disqualification on the part of such an employee, the Administrator, as to proceedings other than proceedings before the Board, or the Chairman, as to proceedings before the Board, shall determine the matter as a part of the record and decision in the case, pursuant to regulations prescribed jointly by the Administrator and the Chairman.

"(f) The transcript or recording of testimony and the exhibits, together with all papers and requests filed in the proceeding, and the decision of the Board (1) shall constitute the exclusive record for decision in accordance with section 4004(a) of this title, (2) shall be available for inspection by any party to such proceeding, or such party's authorized representative, at reasonable times and places, and (3) on the payment of a fee prescribed under section 3302(b) of this title (not to exceed the direct cost of duplication), shall be copied for the claimant or such claimant's authorized representative within a reasonable time. Such fee may be waived by the Chairman, pursuant to regulations which the Administrator shall prescribe, on the basis of the party's inability to pay or for other good cause shown.

"(g) Notwithstanding section 4004(a) of this title, section 554(a) of title 5, or any other provision of law, adjudication and hearing procedures prescribed in this title and in regulations prescribed by the Administrator, as to proceedings other than proceedings before the Board, or by the Chairman, as to proceedings before the Board, or by the Administrator and the Chairman jointly, under this title for the purpose of administering veterans' benefits shall be exclusive with respect to hearings, investigations, and other proceedings in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration.

"§ 4011. Notice of procedural rights and other information

"In the case of any disallowance, in whole or in part, of a claim for benefits under laws administered by the Veterans' Administration, the Administrator, as to proceedings other than proceedings before the Board, or the Chairman, as to proceedings before the Board, shall, at each procedural stage relating to the disposition of such a claim, beginning with disallowance after an initial review or determination, and including the furnishing of a statement of the case and the making of a final decision by the Board, provide to the claimant and such claimant's authorized representative, if any, written notice of the procedural rights of the claimant. Such notice shall be on such forms as the Administrator or the Chairman, respectively, shall prescribe by regulation and shall include, in easily understandable language, with respect to proceedings before the Veterans' Administration and the Board (1) descriptions of all subsequent procedural stages provided for by statute, regulation, or Veterans' Administration policy, (2) descriptions of all rights of the claimant expressly provided for in or pursuant to this chapter, of the claimant's rights to a hearing, to reconsideration, to appeal, and to representation, and of any specific procedures necessary to obtain the various forms of review available for consideration of the claim, (3) in the case of an appeal to the Board, the rights to and opportunities for a hearing provided in section 4010(d) of this title, and (4) such other information as the Administrator or the Chairman, respectively, as a matter of discretion, determines would be useful and practical to assist the claimant in obtaining full consideration of the claim.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4009 the following new items:

"4010. Adjudication procedures.
"4011. Notice of procedural rights and other information.".

SEC. 109. (a) In order to evaluate the feasibility and desirability of alternative methods of (1) seeking to ensure the resolution of claims before the Administrator of Veterans' Affairs or the Board of Veterans' Appeals for benefits under laws administered by the Veterans' Administration as promptly and efficiently as feasible following the filing of a notice of disagreement pursuant to section 4005 (as amended by section 106 of this Act) or 4005A of title 38, United States Code, and (2) affording claimants the opportunity for a hearing before or review by a disinterested authority at a location as

convenient and on as timely a basis as possible for each claimant, the Administrator and the Chairman of the Board of Veterans' Appeals are each authorized to conduct a study commencing not later than 1 year after the date of the enactment of this Act, for a period of 24 months, involving either or both of the alternative methods described in subsection (b) of this section for resolution of claims.

(b)(1) In not more than three geographic areas, the Administrator is authorized to provide an intermediate-level adjudication process whereby each claimant may, within the time afforded such claimant under paragraph (3) of section 4005(d) or 4005A(b) of title 38, United States Code, to file an appeal, request a de novo hearing at the agency of original jurisdiction (as described in section 4005(b)(1) of such title) before a panel of three Veterans' Administration employees, each of whose primary responsibilities include adjudicative functions but none of whom shall have previously considered the merits of the claim at issue. Following such hearing, such panel shall render a decision and prepare a new statement of the case in accordance with the requirements of paragraphs (1) and (2) of section 4005(d) of such title. Such new statement of the case shall, for all purposes relating to appeals under chapter 71 of such title, be considered to be a statement of the case as required by such paragraph (1).

(2) In not more than three other geographic areas, the Chairman is authorized to provide for an enhanced schedule of visits, on at least a quarterly basis each year, by a panel or panels of the Board to conduct formal recorded hearings pursuant to section 4002 of such title in such areas.

(c) Not later than 6 months after the completion of such study, the Administrator and the Chairman, as appropriate, shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the results of the study, including an evaluation of the cost factors associated with each alternative studied and with any appropriate further implementation thereof, the impact on the workload of each regional office involved in such study, and the impact on the annual caseload of the Board resulting from each alternative studied, together with any recommendations for administrative or legislative action, or both, as may be indicated by such results.

SEC. 110. Section 3010(i) is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following new paragraph:

"(2) Whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence in the form of official reports from the department of the Secretary concerned, the effective date of commencement of the benefits so awarded shall be the date on which an award of benefits under the disallowed claim would have been effective had the claim been allowed on the date it was disallowed.".

TITLE II—VETERANS' ADMINISTRATION RULE MAKING

SEC. 201. (a) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§ 223. Rule making

"(a) For the purposes of this section—

"(1) the term 'regulation' includes—

"(A) statements of general policy, instructions, and guidance issued or adopted by the Administrator; and

"(B) interpretations of general applicability issued or adopted by the Administrator; and

"(2) the term 'rule' has the same meaning as is provided in section 551(4) of title 5.

"(b) Notwithstanding the provisions of subsection (a)(2) of section 553 of title 5, the promulgation of rules and regulations by the Administrator, other than rules or regulations pertaining to agency management or personnel or to public property or contracts, shall be subject to the requirements of section 553 of title 5.

"(c) Rules and regulations issued or adopted by the Administrator shall be subject to judicial review as provided in subchapter II of chapter 71 of this title.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 222 the following new item:

"223. Rule making.".

TITLE III—JUDICIAL REVIEW

SEC. 301. Section 211(a) is amended by striking out "sections 775, 784" and inserting in lieu thereof "sections 775 and 784 and subchapter II of chapter 71 of this title".

SEC. 302. (a) Chapter 71 is further amended—

(1) by inserting after the table of sections the following new heading:

"SUBCHAPTER I—GENERAL";

and

(2) by adding at the end thereof the following new subchapter:

"SUBCHAPTER II—JUDICIAL REVIEW

"§ 4025. Right of review; commencement of action

"(a) For the purposes of this chapter—

"(1) 'final decision of the Board of Veterans' Appeals' means—

"(A) a final decision of the Board pursuant to section 4004 (a) or (b) of this title; or

"(B) a dismissal of an appeal by the Board pursuant to section 4005 or 4008 of this title;

"(2) 'claim for benefits' means—

"(A) an initial claim filed under section 3001 of this title;

"(B) a challenge to a decision of the Administrator reducing, suspending, or terminating benefits; or

"(C) any request by or on behalf of the claimant for reopening, reconsideration, or further consideration in a matter described in clause (A) or (B) of this paragraph;

"(3) 'interested party', with respect to a rule or regulation issued or adopted by the Administrator, means any person substantially affected by such rule or regulation; and

"(4) 'disability rating schedule' means the schedule of ratings adopted and readjusted under section 355 of this title and any provision made by the Administrator under section 357 of this title for the combination of ratings.

"(b)(1)(A) Subject to subparagraph (B) of this paragraph, the following matters are subject to judicial review under this subchapter:

"(i) A final decision of the Board of Veterans' Appeals in accordance with subsection (c).

"(ii) A rule or regulation issued or adopted by the Administrator when review of such regulation is requested by a claimant in connection with an action under subsection (c).

"(iii) A rule or regulation so issued or adopted when review of such regulation is requested by any interested party in an action brought only for the purpose of obtaining review of such rule or regulation.

"(B) In an action involving any matter subject to judicial review under this subchapter, a court may not direct or otherwise order that any disability rating schedule issued or adopted by the Administrator be modified.

"(2) Any action for judicial review authorized by this subchapter shall be brought by a claimant or an interested party in the United States Court of Appeals for the circuit in which the plaintiff resides or the plaintiff's principal place of business is located, or in the United States Court of Appeals for the District of Columbia Circuit.

"(c) Except as provided in subsection (g) of this section, after any final decision of the Board of Veterans' Appeals adverse to a claimant in a matter involving a claim for benefits under any law administered by the Veterans' Administration, such claimant may obtain a review of such decision in a civil action commenced within 180 days after notice of such decision is mailed to such claimant pursuant to section 4004(d) of this title.

"(d) The complaint initiating an action under subsection (c) of this section shall contain sufficient information to permit the Administrator to identify and locate the plaintiff's records in the custody or control of the Veterans' Administration.

"(e) Not later than 30 days after filing the answer to a complaint filed pursuant to subsection (d) of this section, the Administrator shall file a certified copy of the records upon which the decision complained of is based or, if the Administrator determines that the cost of filing copies of all such records is unduly expensive, the Administrator shall file a complete index of all documents, transcripts, or other materials comprising such records. After such index is filed and after considering requests from all parties, the court shall require the Administrator to file certified copies of such indexed items as the court considers relevant to its consideration of the case.

"(f) In an action brought under subsection (c) of this section, the court shall have the power, upon the pleadings and the records specified in subsection (e) of this section, to enter judgment in accordance with section 4026 of this title or remand the case in accordance with such section or section 4027 of this title.

"(g)(1) No action may be brought under this section unless (A) the initial claim for benefits is filed pursuant to section 3001 of this title on or before the last day of the fifth fiscal year beginning after the effective date of this section, and (B) the complaint initiating such action is filed not more than 180 days after notice of the first final decision of the Board of Veterans' Appeals rendered after the last day of such fiscal year is mailed to the claimant pursuant to section 4004(d) of this title. If the case is reopened pursuant to section 4004(b)(2)(A) of this title within 180 days after such notice is mailed, the next final decision shall, for purposes of this subsection, be considered the first final decision of the Board.

"(2) No action may be brought under this section with respect to matters arising under chapters 19 and 37 of this title.

"§ 4026. Scope of review

"(a)(1) In any action brought under section 4025 of this title, the court, to the extent necessary to its decision and when presented, shall, except as provided for in section 4025(b)(1)(B) of this title—

"(A) decide all relevant questions of law, interpret constitutional, statutory, and regulatory provisions, and determine the meaning or applicability of the terms of an action of the Administrator;

"(B) compel action of the Administrator unlawfully withheld;

"(C) hold unlawful and set aside decisions, findings (other than those described in clause (D) of this paragraph), conclusions, rules, and regulations issued or adopted by the Administrator, the Board of Veterans' Appeals, the Administrator and the Chairman of the Board jointly, or the Chairman found to be—

"(i) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(ii) contrary to constitutional right, power, privilege, or immunity;

"(iii) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

"(iv) without observance of procedure required by law; and

"(D) in the case of a finding of material fact made in reaching a decision on a claim for benefits under laws administered by the Veterans' Administration, hold unlawful and set aside such finding when it is so utterly lacking in a rational basis in the evidence that a manifest and grievous injustice would result if such finding were not set aside.

"(2) Before setting aside any finding of fact under paragraph (1)(D) of this subsection, the court shall specify the deficiencies in the record upon which the court would set aside such finding and shall remand the case one time to the Board of Veterans' Appeals for further action not inconsistent with the order of the court in remanding the case. In remanding a case under the first sentence of this paragraph, the court shall specify a reasonable period of time within which the Board shall complete the ordered action. If the Board does not complete action on the case within the specified period of time, the case shall be returned to the court for its further action.

"(b) In any action brought under section 4025 of this title, the whole record before the court pursuant to subsection (e) of such section shall be subject to review, the court shall review those parts of such record cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In no event shall findings of fact made by the Administrator or the Board of Veterans' Appeals be subject to trial de novo by the court.

"(d) When a final decision of the Board of Veterans' Appeals is adverse to a party and the sole stated basis for such decision is the failure of such party to comply with any applicable regulation issued or adopted by the Administrator or the Board, the court shall review only questions raised as to compliance with and the validity of the regulation.

"§ 4027. Remands

"(a) If either party to an action brought under section 4025 of this title applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that such additional evidence is material and that there is good cause for granting such leave, the court shall remand the case to the Board of Veterans' Appeals and order such additional evidence to be taken by the Board. The court may specify a reasonable period of time within which the Board shall complete the required action.

"(b) After a case is remanded to the Board of Veterans' Appeals under subsection (a) of this section, and after further action by the Board, including consideration of any additional evidence, the Board shall modify, supplement, affirm, or reverse the findings of fact or decision, or both, and shall file with the court any such modification, supplementation, affirmation, or reversal of the findings of fact or decision or both, as the case may be, and certified copies of any additional records and evidence upon which such modification, supplementation, affirmation, or reversal was based.

"§ 4028. Survival of actions

"Any action brought under section 4025 of this title shall survive notwithstanding any change in the person occupying the office of Administrator or any vacancy in such office.

"§ 4029. Appellate review

"The decisions of a court of appeals pursuant to this chapter shall be subject to appellate review by the Supreme Court of the United States in the same manner as judgments in other civil actions.".

(b) The table of sections at the beginning of such chapter is amended—

(1) by inserting before the item relating to section 4001 the following new item:

"SUBCHAPTER I—GENERAL";

and

(2) by adding after the item (added by section 108(b) of this Act) relating to section 4011 the following new items:

"SUBCHAPTER II—JUDICIAL REVIEW

"4025. Right of review; commencement of action.
"4026. Scope of review.
"4027. Remands.
"4028. Survival of actions.
"4029. Appellate review.".

SEC. 303. Section 1346(d) of title 28, United States Code, is amended by inserting before the period at the end thereof a comma and "except as provided in subchapter II of chapter 71 of title 38".

TITLE IV—ATTORNEYS' FEES

SEC. 401. Section 3404 is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Chairman of the Board of Veterans' Appeals shall approve reasonable attorneys' fees to be paid by the claimant to attorneys for representation, other than in an action brought under section 4025 of this title, in connection with a claim for benefits under laws administered by the Veterans' Administration. In no event may such attorneys' fees exceed—

"(1) for any claim resolved prior to or at the time that a final decision of the Board is first rendered, $10; or

"(2) for any claim resolved after such time—

"(A) if the claimant and an attorney have entered into an agreement under which no fee is payable to such attorney unless the claim is resolved in a manner favorable to the claimant, 25 percent of the total amount of any past-due benefits awarded on the basis of the claim; or

"(B) if the claimant and an attorney have not entered into such an agreement, the lesser of—

"(i) the fee agreed upon by the claimant and the attorney; or

"(ii) $500, or such greater amount as may be specified from time to time in regulations which the Chairman of the Board shall prescribe based on changed national economic conditions subsequent to the date of the enactment of this subsection, except that the Chairman may determine and approve a fee in excess of $500, or such greater amount if so specified, in an individual case involving extraordinary circumstances warranting a higher fee.

"(d)(1) If, in an action brought under section 4025 of this title, the matter is resolved in a manner favorable to a claimant who was represented by an attorney, the court shall determine and allow a reasonable fee for such representation to be paid to the attorney by the claimant. When the claimant and an attorney have entered into an agreement under which the amount of the fee payable to such attorney is to be paid from any past-due benefits awarded on the basis of the claim and the amount of the fee is contingent on whether or not the matter is resolved in a manner favorable to the claimant, the fee so determined and allowed shall not exceed 25 percent of the total amount of any past-due benefits awarded on the basis of the claim.

"(2) If, in an action brought under section 4025 of this title, the matter is not resolved in a manner favorable to the claimant, the court shall ensure that only a reasonable fee, not in excess of $750, is paid to the attorney by the claimant for the representation of such claimant.

"(e) To the extent that past-due benefits are awarded in proceedings before the Administrator, the Board of Veterans' Appeals, or a court, the Administrator shall direct that payment of any attorneys' fee that has been determined and allowed under this section be made out of such past-due benefits, but in no event shall the Administrator withhold for the purpose of such payment any portion of benefits payable for a period subsequent to the date of the final decision of the Administrator, the Board of Veterans' Appeals, or the court making such award.

"(f) The provisions of this section shall apply only to cases involving claims for benefits under the laws administered by the Veterans' Administration, and such provisions shall not apply in cases in which the Veterans' Administration is the plaintiff or in which other attorneys' fee statutes are applicable.

"(g) For the purposes of this section—

"(1) the terms 'final decision of the Board of Veterans' Appeals' and 'claim for benefits' shall have the same meaning provided for such terms, respectively, in section 4025 (a) of this title; and

"(2) claims shall be considered as resolved in a manner favorable to the claimant when all or any part of the relief sought is granted.

"(h) In an action brought under section 4025 of this title, the court may award to a prevailing party, other than the Administrator, reasonable attorneys' fees and costs in accordance with the provisions of section 2412(d) of title 28.".

SEC. 402. Section 3405 is amended—

(1) by striking out "or" after "title,"; and

(2) by inserting a comma and "or (3) with intent to defraud, in any manner willfully and knowingly deceives, misleads, or threatens a claimant or beneficiary or prospective claimant or beneficiary under this title with reference to any matter covered by this title" before "shall".

TITLE V—EFFECTIVE DATES

SEC. 501. This Act and the amendments made by this Act shall take effect on the first day of the first month beginning not less than 180 days after the date of the enactment of this Act.

SEC. 502. A civil action authorized in subchapter II of chapter 71 of title 38, United States Code (as added by section 302(a) of this Act) may be instituted to review final decisions of the Board of Veterans' Appeals rendered on or after April 1, 1987.

MOTION OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MONTGOMERY moves to strike all after the enacting clause of the Senate bill, S. 11 and insert in lieu thereof the provisions of H.R. 5288, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed. The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to provide an improved system of review of decisions of the Veterans' Administration with respect to claims for veterans' benefits, and for other purposes."

Mr. PANETTA. Mr. Speaker, I rise today to lend my support to H.R. 5288, which will extend to veterans the right to judicial review. I am pleased that a bipartisan compromise has been reached in the House and the Senate so that this fundamental constitutional right will finally be available to our Nation's veterans.

The Congress of the United States has provided a strong system of benefits for our Nation's veterans. These benefits represent a fundamental right for our veterans. But there is no right without a remedy. And current law provides no true remedy for a veteran who feels his rights have been violated.

A veteran should be able to go to an unbiased third party for an impartial review of any adverse bureaucratic decision. But this is not available to our veterans.

Right now, a veteran is virtually helpless if the Veterans' Administration makes an adverse decision regarding his rights or benefits. The only appeal he can make is to the office that made the decision in the first place. Obviously, the chance of a reversal in these circumstances is extremely slim. Three out of every four appeals of VA decisions are denied, and it is no wonder. The reality is that our veterans have no true right of appeal.

This violates not only the trust between this Nation and our veterans but also the principle of judicial review of bureaucratic decisions that applies virtually across the board for other groups and is a cornerstone of our judicial system. Ironically, we deny a fundamental right belonging to all Americans to those who have fought and sacrificed to protect all of our rights.

The basic principle of this legislation is that judicial review of decisions by the Veterans' Administration ought to be available to our veterans. I believe that it addresses this serious imbalance in the relationship between our Nation's veterans and the Federal Government.

This legislation does not provide an unusual right or benefit. The right of judicial appeal is a right afforded to Social Security recipients, to undocumented aliens, and to prisoners, but it is denied to the men and women who have served this country in uniform.

Today, veterans simply have no remedy. Current law stipulates that a veteran's claim for benefits is decided only by the VA. No veteran's claim may be brought before a Federal court for adjudication.

In addition, current law places a $10 limit on the amount a veteran may pay for a lawyer's services in his claims appeal with the VA. This provision, enacted in 1862, makes it virtually impossible for a veteran to obtain the help of an attorney.

The time has come to treat our veterans fairly. We ought to give them the right to take their claims and appeals to the courts. This measure that we are voting on today will give them that right. In addition, it provides for reasonable attorney fees so that a veteran has a fair opportunity to obtain legal counsel. This compromise addresses two important issues. First, it alows for a review of fact by a court after the Board of Veterans Appeals [BVA] has made a decision. Second, it provides that appeals may ultimately be made to the Federal circuit court, thus making the appeal process more easily accessible to all veterans.

One of our Nation's first priorities is to ensure that our veterans get the fair treatment they deserve. The time has come to give this Nation's veterans a right which most other Americans possess, the right to judicial review. I hope that my colleagues will join me in supporting this important legislation.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5288) was laid on the table.

MAKING A CORRECTION IN THE EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5408.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the bill, H.R. 5408, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 393, nays 9, not voting 29, as follows:

[Roll No. 379]

YEAS—393

Ackerman	Beilenson	Brennan	Chappell	Herger	Natcher
Akaka	Bennett	Brooks	Cheney	Hertel	Neal
Alexander	Bentley	Broomfield	Clarke	Hiler	Nelson
Anderson	Bereuter	Brown (CA)	Clement	Hochbrueckner	Nichols
Andrews	Berman	Brown (CO)	Clinger	Hopkins	Nielson
Annunzio	Bevill	Bruce	Coats	Horton	Nowak
Anthony	Bilbray	Bryant	Coble	Houghton	Oakar
Applegate	Bilirakis	Buechner	Coelho	Hoyer	Oberstar
Aspin	Bliley	Bunning	Coleman (MO)	Hubbard	Obey
Atkins	Boehlert	Bustamante	Coleman (TX)	Huckaby	Olin
AuCoin	Boggs	Byron	Collins	Hughes	Ortiz
Badham	Boland	Callahan	Combest	Hunter	Owens (NY)
Baker	Bonior	Campbell	Conte	Hutto	Owens (UT)
Ballenger	Bonker	Cardin	Conyers	Hyde	Oxley
Barnard	Borski	Carper	Cooper	Inhofe	Packard
Bartlett	Bosco	Carr	Costello	Ireland	Panetta
Bateman	Boucher	Chandler	Coughlin	Jacobs	Parris
Bates	Boxer	Chapman	Coyne	Jeffords	Pashayan
			Craig	Jenkins	Patterson
			Crockett	Johnson (CT)	Payne
			Darden	Johnson (SD)	Pease
			Daub	Jones (NC)	Pelosi
			Davis (IL)	Jones (TN)	Penny
			Davis (MI)	Jontz	Pepper
			de la Garza	Kanjorski	Perkins
			DeFazio	Kaptur	Petri
			Dellums	Kastenmeier	Pickett
			Derrick	Kennedy	Pickle
			DeWine	Kennelly	Porter
			Dickinson	Kildee	Price
			Dicks	Kolbe	Pursell
			Dingell	Kolter	Quillen
			DioGuardi	Konnyu	Rahall
			Dixon	Kostmayer	Rangel
			Dorgan (ND)	Kyl	Ravenel
			Dornan (CA)	LaFalce	Ray
			Downey	Lagomarsino	Regula
			Dreier	Lancaster	Rhodes
			Durbin	Lantos	Richardson
			Dwyer	Latta	Ridge
			Dymally	Leach (IA)	Rinaldo
			Dyson	Leath (TX)	Ritter
			Early	Lehman (CA)	Roberts
			Edwards (CA)	Lehman (FL)	Robinson
			Edwards (OK)	Leland	Rodino
			Emerson	Lent	Roe
			English	Lewis (CA)	Rogers
			Erdreich	Lewis (FL)	Rose
			Evans	Lewis (GA)	Rostenkowski
			Fascell	Lightfoot	Roth
			Fawell	Lipinski	Roukema
			Fazio	Livingston	Rowland (CT)
			Feighan	Lloyd	Rowland (GA)
			Fields	Lowery (CA)	Roybal
			Fish	Lujan	Russo
			Flake	Luken, Thomas	Sabo
			Flippo	Lukens, Donald	Saiki
			Florio	Madigan	Savage
			Foglietta	Manton	Sawyer
			Foley	Markey	Saxton
			Frank	Marlenee	Schaefer
			Frenzel	Martin (IL)	Scheuer
			Frost	Martin (NY)	Schneider
			Gallegly	Martinez	Schroeder
			Gallo	Matsui	Schuette
			Garcia	Mavroules	Schulze
			Gaydos	Mazzoli	Schumer
			Gejdenson	McCandless	Sensenbrenner
			Gekas	McCloskey	Sharp
			Gephardt	McCrery	Shaw
			Gibbons	McCurdy	Shays
			Gilman	McDade	Shuster
			Gingrich	McGrath	Sikorski
			Glickman	McHugh	Sisisky
			Gonzalez	McMillan (NC)	Skaggs
			Goodling	McMillen (MD)	Skeen
			Gordon	Meyers	Skelton
			Gradison	Mfume	Slattery
			Grandy	Mica	Slaughter (VA)
			Grant	Michel	Smith (FL)
			Gray (IL)	Miller (CA)	Smith (IA)
			Gray (PA)	Miller (OH)	Smith (NE)
			Green	Miller (WA)	Smith (NJ)
			Guarini	Mineta	Smith (TX)
			Gunderson	Moakley	Smith, Denny (OR)
			Hall (OH)	Molinari	
			Hall (TX)	Mollohan	Smith, Robert (NH)
			Hamilton	Montgomery	
			Hammerschmidt	Moody	Smith, Robert (OR)
			Hansen	Moorhead	
			Harris	Morella	Snowe
			Hastert	Morrison (WA)	Solarz
			Hatcher	Mrazek	Solomon
			Hawkins	Murphy	Spence
			Hayes (LA)	Murtha	Spratt
			Hefley	Myers	St Germain
			Henry	Nagle	Staggers

Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—9

Archer
Armey
Barton
Burton
Crane
Dannemeyer
DeLay
Shumway
Stump

NOT VOTING—29

Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hayes (IL)
Hefner
Holloway
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss

□ 1855

Mr. BURTON of Indiana changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. HORTON. Mr. Speaker, I have a 60-minute special order this evening to give our appreciation to the retiring gentleman from New York [Mr. STRATTON].

Because of the lateness of the hour, I ask unanimous consent to reschedule it for Thursday, October 6, 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

TECHNICAL AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT

The SPEAKER pro tempore. The pending business is on the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 4857.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4857, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 2, not voting 30, as follows:

[Roll No. 380]

YEAS—399

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—2

DeLay
Stump

NOT VOTING—30

Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hayes (IL)
Hefner
Holloway
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss
Weldon

□ 1904

Mr. CRANE changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate amendment to H.R. 4857 was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROMPT PAYMENT ACT OF 1987

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendment to the concurrent resolution (H. Con. Res. 351).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and concur in the Senate amendment to the concurrent resolution (H. Con. Res. 351), on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 0, not voting 32, as follows:

[Roll No. 381]

YEAS—399

Ackerman	Derrick	Jenkins
Akaka	DeWine	Johnson (CT)
Alexander	Dickinson	Johnson (SD)
Anderson	Dicks	Jones (NC)
Andrews	Dingell	Jones (TN)
Annunzio	DioGuardi	Jontz
Anthony	Dixon	Kanjorski
Applegate	Dorgan (ND)	Kaptur
Archer	Dornan (CA)	Kastenmeier
Armey	Downey	Kennedy
Aspin	Dreier	Kennelly
Atkins	Durbin	Kildee
AuCoin	Dwyer	Kolbe
Badham	Dymally	Kolter
Baker	Dyson	Konnyu
Ballenger	Early	Kostmayer
Barnard	Edwards (CA)	Kyl
Bartlett	Edwards (OK)	LaFalce
Barton	Emerson	Lagomarsino
Bateman	English	Lancaster
Bates	Erdreich	Lantos
Beilenson	Evans	Latta
Bennett	Fascell	Leach (IA)
Bentley	Fawell	Leath (TX)
Bereuter	Fazio	Lehman (CA)
Berman	Feighan	Lehman (FL)
Bevill	Fields	Leland
Bilbray	Fish	Lent
Bilirakis	Flake	Lewis (CA)
Bliley	Flippo	Lewis (FL)
Boehlert	Florio	Lewis (GA)
Boggs	Foglietta	Lightfoot
Boland	Foley	Lipinski
Bonior	Frank	Livingston
Bonker	Frenzel	Lloyd
Borski	Frost	Lowery (CA)
Bosco	Gallegly	Lujan
Boucher	Gallo	Luken, Thomas
Boxer	Garcia	Lukens, Donald
Brennan	Gaydos	Madigan
Brooks	Gejdenson	Manton
Broomfield	Gekas	Markey
Brown (CA)	Gephardt	Marlenee
Brown (CO)	Gibbons	Martin (IL)
Bruce	Gilman	Martin (NY)
Bryant	Gingrich	Martinez
Buechner	Glickman	Matsui
Bunning	Gonzalez	Mavroules
Burton	Goodling	Mazzoli
Bustamante	Gordon	McCandless
Byron	Gradison	McCloskey
Callahan	Grandy	McCrery
Campbell	Grant	McCurdy
Cardin	Gray (IL)	McDade
Carper	Gray (PA)	McGrath
Carr	Green	McHugh
Chandler	Guarini	McMillan (NC)
Chapman	Gunderson	McMillen (MD)
Chappell	Hall (OH)	Meyers
Cheney	Hall (TX)	Mfume
Clarke	Hamilton	Michel
Clement	Hammerschmidt	Miller (CA)
Clinger	Hansen	Miller (OH)
Coats	Harris	Miller (WA)
Coble	Hastert	Mineta
Coelho	Hatcher	Moakley
Coleman (MO)	Hawkins	Molinari
Coleman (TX)	Hayes (LA)	Mollohan
Collins	Hefley	Montgomery
Combest	Henry	Moody
Conte	Herger	Moorhead
Conyers	Hertel	Morella
Cooper	Hiler	Morrison (WA)
Costello	Hochbrueckner	Mrazek
Coughlin	Hopkins	Murphy
Coyne	Horton	Murtha
Craig	Houghton	Myers
Crane	Hoyer	Nagle
Crockett	Hubbard	Natcher
Dannemeyer	Huckaby	Neal
Darden	Hughes	Nelson
Daub	Hunter	Nichols
Davis (IL)	Hutto	Nielson
Davis (MI)	Hyde	Nowak
de la Garza	Inhofe	Oakar
DeFazio	Ireland	Oberstar
DeLay	Jacobs	Obey
Dellums	Jeffords	Olin
Ortiz	Saiki	Stratton
Owens (NY)	Savage	Studds
Owens (UT)	Sawyer	Stump
Oxley	Saxton	Sundquist
Packard	Schaefer	Swift
Panetta	Scheuer	Swindall
Parris	Schneider	Synar
Pashayan	Schroeder	Tallon
Patterson	Schuette	Tauke
Payne	Schumer	Tauzin
Pease	Sensenbrenner	Taylor
Pelosi	Sharp	Thomas (CA)
Penny	Shaw	Thomas (GA)
Pepper	Shays	Torres
Perkins	Shumway	Torricelli
Petri	Shuster	Towns
Pickett	Sikorski	Traficant
Pickle	Sisisky	Traxler
Porter	Skaggs	Udall
Price	Skeen	Upton
Pursell	Skelton	Valentine
Quillen	Slattery	Vander Jagt
Rahall	Slaughter (VA)	Vento
Rangel	Smith (FL)	Visclosky
Ravenel	Smith (IA)	Volkmer
Ray	Smith (NE)	Vucanovich
Regula	Smith (NJ)	Walgren
Rhodes	Smith (TX)	Walker
Richardson	Smith, Denny (OR)	Watkins
Ridge	Smith, Robert (NH)	Waxman
Rinaldo	Smith, Robert (OR)	Weber
Ritter	Snowe	Wheat
Roberts	Solarz	Whittaker
Robinson	Solomon	Whitten
Rodino	Spence	Williams
Roe	Spratt	Wilson
Rogers	St Germain	Wise
Rose	Staggers	Wolf
Rostenkowski	Stallings	Wolpe
Roth	Stangeland	Wortley
Roukema	Stark	Wyden
Rowland (CT)	Stenholm	Wylie
Rowland (GA)	Stokes	Yates
Roybal		Yatron
Russo		Young (AK)
Sabo		Young (FL)

NOT VOTING—32

Boulter	Hefner	MacKay
Clay	Holloway	McCollum
Courter	Kasich	McEwen
Donnelly	Kemp	Mica
Dowdy	Kleczka	Morrison (CT)
Eckart	Levin (MI)	Schulze
Espy	Levine (CA)	Slaughter (NY)
Ford (MI)	Lott	Sweeney
Ford (TN)	Lowry (WA)	Weiss
Gregg	Lungren	Weldon
Hayes (IL)	Mack	

□ 1911

So two-thirds having voted in favor thereof, the rules were suspended and the Senate amendment to House Concurrent Resolution 351 was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the House amendment to the Senate bill, S. 496.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and concur in the Senate amendment to the House amendment to the Senate bill, S. 496, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 393, nays 8, not voting 30, as follows:

[Roll No. 382]

YEAS—393

Ackerman	DeWine	Jenkins
Akaka	Dickinson	Johnson (CT)
Alexander	Dicks	Johnson (SD)
Anderson	Dingell	Jones (NC)
Andrews	DioGuardi	Jones (TN)
Annunzio	Dixon	Jontz
Anthony	Dorgan (ND)	Kanjorski
Applegate	Dornan (CA)	Kaptur
Archer	Downey	Kastenmeier
Armey	Dreier	Kennedy
Aspin	Durbin	Kennelly
Atkins	Dwyer	Kildee
AuCoin	Dymally	Kolbe
Badham	Dyson	Kolter
Baker	Early	Konnyu
Ballenger	Edwards (CA)	Kostmayer
Barnard	Edwards (OK)	LaFalce
Bartlett	Emerson	Lagomarsino
Barton	English	Lancaster
Bateman	Erdreich	Lantos
Bates	Evans	Latta
Beilenson	Fascell	Leach (IA)
Bennett	Fawell	Leath (TX)
Bentley	Fazio	Lehman (CA)
Bereuter	Feighan	Lehman (FL)
Berman	Fields	Leland
Bevill	Fish	Lent
Bilbray	Flake	Lewis (CA)
Bilirakis	Flippo	Lewis (FL)
Bliley	Florio	Lewis (GA)
Boehlert	Foglietta	Lightfoot
Boggs	Foley	Lipinski
Boland	Frank	Livingston
Bonior	Frenzel	Lloyd
Bonker	Frost	Lowery (CA)
Borski	Gallegly	Lujan
Bosco	Gallo	Luken, Thomas
Boucher	Garcia	Lukens, Donald
Boxer	Gaydos	Madigan
Brennan	Gejdenson	Manton
Brooks	Gekas	Markey
Broomfield	Gephardt	Marlenee
Brown (CA)	Gibbons	Martin (IL)
Brown (CO)	Gilman	Martin (NY)
Bruce	Gingrich	Martinez
Bryant	Glickman	Matsui
Buechner	Gonzalez	Mavroules
Bunning	Goodling	Mazzoli
Bustamante	Gordon	McCandless
Byron	Gradison	McCloskey
Callahan	Grandy	McCrery
Campbell	Grant	McCurdy
Cardin	Gray (IL)	McDade
Carper	Gray (PA)	McGrath
Carr	Green	McHugh
Chandler	Guarini	McMillan (NC)
Chapman	Gunderson	McMillen (MD)
Chappell	Hall (OH)	Meyers
Cheney	Hall (TX)	Mfume
Clarke	Hamilton	Mica
Clement	Hammerschmidt	Michel
Clinger	Hansen	Miller (CA)
Coats	Harris	Miller (OH)
Coble	Hastert	Miller (WA)
Coelho	Hatcher	Mineta
Coleman (MO)	Hawkins	Moakley
Coleman (TX)	Hayes (LA)	Molinari
Collins	Hefley	Mollohan
Combest	Henry	Montgomery
Conte	Hertel	Moody
Conyers	Hiler	Moorhead
Cooper	Hochbrueckner	Morella
Costello	Hopkins	Morrison (WA)
Coughlin	Horton	Mrazek
Coyne	Houghton	Murphy
Craig	Hoyer	Murtha
Crane	Hubbard	Myers
Crockett	Huckaby	Nagle
Darden	Hughes	Natcher
Daub	Hunter	Neal
Davis (IL)	Hutto	Nelson
Davis (MI)	Hyde	Nichols
de la Garza	Inhofe	Nielson
DeFazio	Ireland	Nowak
Dellums	Jacobs	Oakar
Derrick	Jeffords	Oberstar

Obey	Russo	Stenholm
Olin	Sabo	Stokes
Ortiz	Saiki	Stratton
Owens (NY)	Savage	Studds
Owens (UT)	Sawyer	Sundquist
Oxley	Saxton	Swift
Packard	Schaefer	Swindall
Panetta	Scheuer	Synar
Parris	Schneider	Tallon
Pashayan	Schroeder	Tauke
Patterson	Schuette	Tauzin
Payne	Schulze	Taylor
Pease	Schumer	Thomas (CA)
Pelosi	Sensenbrenner	Thomas (GA)
Penny	Sharp	Torres
Pepper	Shaw	Torricelli
Perkins	Shays	Towns
Petri	Shuster	Traficant
Pickett	Sikorski	Traxler
Pickle	Sisisky	Udall
Porter	Skaggs	Upton
Price	Skeen	Valentine
Pursell	Skelton	Vander Jagt
Quillen	Slattery	Vento
Rahall	Slaughter (VA)	Visclosky
Rangel	Smith (FL)	Volkmer
Ravenel	Smith (IA)	Vucanovich
Ray	Smith (NE)	Walgren
Regula	Smith (NJ)	Watkins
Rhodes	Smith (TX)	Waxman
Richardson	Smith, Denny (OR)	Weber
Ridge	Smith, Robert (NH)	Wheat
Rinaldo	Smith, Robert (OR)	Whittaker
Ritter	Snowe	Whitten
Roberts	Solarz	Williams
Robinson	Solomon	Wilson
Rodino	Spence	Wise
Roe	Spratt	Wolf
Rogers	St Germain	Wolpe
Rose	Staggers	Wortley
Rostenkowski	Stallings	Wyden
Roth	Stangeland	Wylie
Roukema	Stark	Yates
Rowland (CT)		Yatron
Rowland (GA)		Young (AK)
Roybal		Young (FL)

NAYS—8

Burton	Herger	Stump
Dannemeyer	Kyl	Walker
DeLay	Shumway	

NOT VOTING—30

Boulter	Hayes (IL)	Lungren
Clay	Hefner	Mack
Courter	Holloway	MacKay
Donnelly	Kasich	McCollum
Dowdy	Kemp	McEwen
Eckart	Kleczka	Morrison (CT)
Espy	Levin (MI)	Slaughter (NY)
Ford (MI)	Levine (CA)	Sweeney
Ford (TN)	Lott	Weiss
Gregg	Lowry (WA)	Weldon

□ 1918

Mr. BURTON of Indiana changed his vote from "yea" to "nay."

So (two-thirds having vote in favor thereof) the rules were suspended and the Senate amendment to the House amendment to the Senate bill S. 496, was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TRANSFER OF CONTROL OF GENERAL ACCOUNTING OFFICE BUILDING

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The pending business is the question of suspending the rules and passing the bill, H.R. 5052, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspended the rules and pass the bill. H.R. 5052, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 0, not voting 31, as follows:

[Roll No. 383]

YEAS—400

Ackerman	Davis (IL)	Houghton
Akaka	Davis (MI)	Hoyer
Alexander	de la Garza	Hubbard
Anderson	DeFazio	Huckaby
Andrews	DeLay	Hughes
Annunzio	Dellums	Hunter
Anthony	Derrick	Hutto
Applegate	DeWine	Hyde
Archer	Dickinson	Inhofe
Armey	Dicks	Ireland
Aspin	Dingell	Jacobs
Atkins	DioGuardi	Jeffords
AuCoin	Dixon	Jenkins
Badham	Dorgan (ND)	Johnson (CT)
Baker	Dornan (CA)	Johnson (SD)
Ballenger	Downey	Jones (NC)
Barnard	Dreier	Jones (TN)
Bartlett	Durbin	Jontz
Barton	Dwyer	Kanjorski
Bateman	Dymally	Kaptur
Bates	Dyson	Kastenmeier
Bellenson	Early	Kennedy
Bennett	Edwards (CA)	Kennelly
Bentley	Edwards (OK)	Kildee
Bereuter	Emerson	Kolbe
Berman	English	Kolter
Bevill	Erdreich	Konnyu
Bilbray	Evans	Kostmayer
Bilirakis	Fascell	Kyl
Bliley	Fawell	LaFalce
Boehlert	Fazio	Lagomarsino
Boggs	Feighan	Lancaster
Boland	Fields	Lantos
Bonior	Fish	Latta
Bonker	Flake	Leach (IA)
Borski	Flippo	Leath (TX)
Bosco	Florio	Lehman (CA)
Boucher	Foglietta	Lehman (FL)
Boxer	Foley	Leland
Brennan	Frank	Lent
Brooks	Frenzel	Lewis (CA)
Broomfield	Frost	Lewis (FL)
Brown (CA)	Gallegly	Lewis (GA)
Brown (CO)	Gallo	Lightfoot
Bruce	Garcia	Lipinski
Bryant	Gaydos	Livingston
Buechner	Gejdenson	Lloyd
Bunning	Gekas	Lowery (CA)
Burton	Gephardt	Lujan
Bustamante	Gibbons	Luken, Thomas
Byron	Gilman	Lukens, Donald
Callahan	Gingrich	Madigan
Campbell	Glickman	Manton
Cardin	Gonzalez	Markey
Carper	Goodling	Marlenee
Carr	Gordon	Martin (IL)
Chandler	Gradison	Martin (NY)
Chapman	Grandy	Martinez
Chappell	Grant	Matsui
Cheney	Gray (IL)	Mavroules
Clarke	Gray (PA)	Mazzoli
Clement	Green	McCandless
Clinger	Guarini	McCloskey
Coats	Gunderson	McCrery
Coble	Hall (OH)	McCurdy
Coelho	Hall (TX)	McDade
Coleman (MO)	Hamilton	McGrath
Coleman (TX)	Hammerschmidt	McHugh
Collins	Hansen	McMillan (NC)
Combest	Harris	McMillen (MD)
Conte	Hastert	Meyers
Conyers	Hatcher	Mfume
Cooper	Hawkins	Mica
Costello	Hayes (LA)	Michel
Coughlin	Hefley	Miller (CA)
Coyne	Henry	Miller (OH)
Craig	Herger	Miller (WA)
Crane	Hertel	Mineta
Crockett	Hiler	Moakley
Dannemeyer	Hochbrueckner	Molinari
Darden	Hopkins	Mollohan
Daub	Horton	Montgomery
Moody	Roe	Stallings
Moorhead	Rogers	Stangeland
Morella	Rose	Stark
Morrison (WA)	Rostenkowski	Stenholm
Mrazek	Roth	Stokes
Murtha	Roukema	Stratton
Myers	Rowland (CT)	Studds
Nagle	Rowland (GA)	Stump
Natcher	Roybal	Sundquist
Neal	Russo	Swift
Nelson	Sabo	Swindall
Nichols	Saiki	Synar
Nielson	Savage	Tallon
Nowak	Sawyer	Tauke
Oakar	Saxton	Tauzin
Oberstar	Schaefer	Taylor
Obey	Scheuer	Thomas (CA)
Olin	Schneider	Thomas (GA)
Ortiz	Schroeder	Torres
Owens (NY)	Schuette	Torricelli
Owens (UT)	Schulze	Towns
Oxley	Schumer	Traficant
Packard	Sensenbrenner	Traxler
Panetta	Sharp	Udall
Parris	Shaw	Upton
Pashayan	Shays	Valentine
Patterson	Shumway	Vander Jagt
Payne	Shuster	Vento
Pease	Sikorski	Visclosky
Pelosi	Sisisky	Volkmer
Penny	Skaggs	Vucanovich
Pepper	Skeen	Walgren
Perkins	Skelton	Walker
Petri	Slattery	Watkins
Pickett	Slaughter (VA)	Waxman
Pickle	Smith (FL)	Weber
Porter	Smith (IA)	Wheat
Price	Smith (NE)	Whittaker
Pursell	Smith (NJ)	Whitten
Quillen	Smith (TX)	Williams
Rahall	Smith, Denny (OR)	Wilson
Rangel	Smith, Robert (NH)	Wise
Ravenel	Smith, Robert (OR)	Wolf
Ray	Snowe	Wolpe
Regula	Solarz	Wortley
Rhodes	Solomon	Wyden
Richardson	Spence	Wylie
Ridge	Spratt	Yates
Rinaldo	St Germain	Yatron
Ritter	Staggers	Young (AK)
Roberts		Young (FL)
Robinson		
Rodino		

NOT VOTING—31

Boulter	Hefner	MacKay
Clay	Holloway	McCollum
Courter	Kasich	McEwen
Donnelly	Kemp	Morrison (CT)
Dowdy	Kleczka	Murphy
Eckart	Levin (MI)	Slaughter (NY)
Espy	Levine (CA)	Sweeney
Ford (MI)	Lott	Weiss
Ford (TN)	Lowry (WA)	Weldon
Gregg	Lungren	
Hayes (IL)	Mack	

□ 1926

Mr. UDALL changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING SECRETARY OF THE AIR FORCE AUTHORITY TO CONVEY CERTAIN LAND

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5291.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Florida [Mr. HUTTO] that the House suspend the rules and pass the bill, H.R. 5291, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 1, not voting 32, as follows:

[Roll No. 384]

YEAS—398

Ackerman	de la Garza	Huckaby
Akaka	DeFazio	Hughes
Alexander	DeLay	Hunter
Anderson	Dellums	Hutto
Andrews	Derrick	Hyde
Annunzio	DeWine	Inhofe
Anthony	Dickinson	Ireland
Applegate	Dicks	Jacobs
Archer	Dingell	Jeffords
Armey	DioGuardi	Jenkins
Aspin	Dixon	Johnson (CT)
Atkins	Dorgan (ND)	Johnson (SD)
AuCoin	Dornan (CA)	Jones (NC)
Baker	Downey	Jones (TN)
Ballenger	Dreier	Jontz
Barnard	Durbin	Kanjorski
Bartlett	Dwyer	Kaptur
Barton	Dymally	Kastenmeier
Bateman	Dyson	Kennedy
Bates	Early	Kennelly
Beilenson	Edwards (CA)	Kildee
Bennett	Edwards (OK)	Kolbe
Bentley	Emerson	Kolter
Bereuter	English	Konnyu
Berman	Erdreich	Kostmayer
Bevill	Evans	Kyl
Bilbray	Fascell	LaFalce
Bilirakis	Fawell	Lagomarsino
Bliley	Fazio	Lancaster
Boehlert	Feighan	Lantos
Boggs	Fields	Latta
Boland	Fish	Leach (IA)
Bonior	Flake	Leath (TX)
Bonker	Flippo	Lehman (CA)
Borski	Florio	Lehman (FL)
Bosco	Foglietta	Leland
Boucher	Foley	Lent
Boxer	Frank	Lewis (CA)
Brennan	Frenzel	Lewis (FL)
Brooks	Frost	Lewis (GA)
Broomfield	Gallegly	Lightfoot
Brown (CA)	Gallo	Lipinski
Brown (CO)	Garcia	Livingston
Bruce	Gaydos	Lloyd
Bryant	Gejdenson	Lowery (CA)
Buechner	Gekas	Lujan
Bunning	Gephardt	Luken, Thomas
Burton	Gibbons	Lukens, Donald
Bustamante	Gilman	Madigan
Byron	Gingrich	Manton
Callahan	Glickman	Markey
Campbell	Gonzalez	Marlenee
Cardin	Goodling	Martin (IL)
Carper	Gordon	Martin (NY)
Carr	Gradison	Martinez
Chandler	Grandy	Matsui
Chapman	Grant	Mavroules
Chappell	Gray (IL)	Mazzoli
Cheney	Gray (PA)	McCandless
Clarke	Green	McCloskey
Clement	Guarini	McCrery
Clinger	Gunderson	McCurdy
Coats	Hall (OH)	McDade
Coble	Hall (TX)	McGrath
Coelho	Hamilton	McHugh
Coleman (MO)	Hammerschmidt	McMillan (NC)
Coleman (TX)	Hansen	McMillen (MD)
Collins	Harris	Meyers
Combest	Hastert	Mfume
Conte	Hatcher	Mica
Conyers	Hawkins	Michel
Cooper	Hayes (LA)	Miller (CA)
Costello	Hefley	Miller (OH)
Coughlin	Henry	Miller (WA)
Coyne	Herger	Mineta
Craig	Hertel	Moakley
Crane	Hiler	Molinari
Crockett	Hochbrueckner	Mollohan
Dannemeyer	Hopkins	Montgomery
Darden	Horton	Moody
Daub	Houghton	Moorhead
Davis (IL)	Hoyer	Morella
Davis (MI)	Hubbard	Morrison (WA)
Mrazek	Rose	Stallings
Murphy	Rostenkowski	Stangeland
Murtha	Roth	Stark
Myers	Roukema	Stenholm
Nagle	Rowland (CT)	Stokes
Natcher	Rowland (GA)	Stratton
Neal	Roybal	Studds
Nelson	Russo	Stump
Nichols	Sabo	Sundquist
Nielson	Saiki	Swift
Nowak	Savage	Swindall
Oakar	Sawyer	Synar
Oberstar	Saxton	Tallon
Obey	Schaefer	Tauke
Olin	Scheuer	Tauzin
Ortiz	Schneider	Taylor
Owens (NY)	Schroeder	Thomas (CA)
Owens (UT)	Schuette	Thomas (GA)
Oxley	Schulze	Torres
Packard	Schumer	Torricelli
Panetta	Sensenbrenner	Towns
Parris	Sharp	Traficant
Pashayan	Shaw	Traxler
Patterson	Shays	Udall
Payne	Shumway	Upton
Pease	Shuster	Valentine
Pelosi	Sikorski	Vander Jagt
Penny	Sisisky	Visclosky
Pepper	Skaggs	Volkmer
Perkins	Skeen	Vucanovich
Petri	Skelton	Walgren
Pickett	Slattery	Walker
Pickle	Slaughter (VA)	Watkins
Porter	Smith (FL)	Waxman
Price	Smith (IA)	Weber
Pursell	Smith (NE)	Wheat
Quillen	Smith (NJ)	Whittaker
Rahall	Smith (TX)	Whitten
Ravenel	Smith, Denny (OR)	Williams
Ray	Smith, Robert (NH)	Wilson
Regula	Smith, Robert (OR)	Wise
Rhodes	Snowe	Wolf
Richardson	Solarz	Wolpe
Ridge	Solomon	Wortley
Rinaldo	Spence	Wyden
Ritter	Spratt	Wylie
Roberts	St Germain	Yates
Robinson	Staggers	Yatron
Rodino		Young (AK)
Roe		Young (FL)
Rogers		

NAYS—1

Vento

NOT VOTING—32

Badham	Hayes (IL)	Mack
Boulter	Hefner	MacKay
Clay	Holloway	McCollum
Courter	Kasich	McEwen
Donnelly	Kemp	Morrison (CT)
Dowdy	Kleczka	Rangel
Eckart	Levin (MI)	Slaughter (NY)
Espy	Levine (CA)	Sweeney
Ford (MI)	Lott	Weiss
Ford (TN)	Lowry (WA)	Weldon
Gregg	Lungren	

□ 1934

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WOMEN'S BUSINESS OWNERSHIP ACT OF 1988

The SPEAKER pro tempore (Mr. GRAY of Illinois). The pending business is the question of suspending the rules and passing the bill, H.R. 5050, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 5050, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 389, nays 7, not voting 35, as follows:

[Roll No. 385]

YEAS—389

Ackerman	Derrick	Jacobs
Akaka	DeWine	Jeffords
Alexander	Dickinson	Jenkins
Anderson	Dicks	Johnson (CT)
Andrews	Dingell	Johnson (SD)
Annunzio	DioGuardi	Jones (NC)
Anthony	Dixon	Jones (TN)
Applegate	Dorgan (ND)	Jontz
Archer	Dornan (CA)	Kanjorski
Armey	Downey	Kaptur
Aspin	Dreier	Kastenmeier
Atkins	Durbin	Kennedy
AuCoin	Dwyer	Kennelly
Baker	Dymally	Kildee
Ballenger	Dyson	Kolbe
Barnard	Early	Kolter
Bartlett	Edwards (CA)	Konnyu
Barton	Edwards (OK)	Kostmayer
Bateman	Emerson	Kyl
Bates	English	LaFalce
Beilenson	Erdreich	Lagomarsino
Bennett	Evans	Lancaster
Bentley	Fascell	Lantos
Bereuter	Fawell	Latta
Berman	Fazio	Leach (IA)
Bevill	Feighan	Leath (TX)
Bilbray	Fields	Lehman (CA)
Bilirakis	Flake	Lehman (FL)
Bliley	Flippo	Leland
Boehlert	Florio	Lent
Boggs	Foglietta	Lewis (CA)
Boland	Foley	Lewis (FL)
Bonior	Frank	Lewis (GA)
Bonker	Frenzel	Lightfoot
Borski	Frost	Lipinski
Bosco	Gallegly	Livingston
Boucher	Gallo	Lloyd
Boxer	Garcia	Lowery (CA)
Brennan	Gaydos	Lujan
Brooks	Gejdenson	Luken, Thomas
Broomfield	Gekas	Lukens, Donald
Brown (CA)	Gephardt	Madigan
Brown (CO)	Gibbons	Manton
Bruce	Gilman	Markey
Bryant	Gingrich	Marlenee
Buechner	Glickman	Martin (IL)
Bunning	Gonzalez	Martin (NY)
Burton	Goodling	Martinez
Bustamante	Gordon	Matsui
Byron	Gradison	Mavroules
Callahan	Grandy	Mazzoli
Campbell	Grant	McCandless
Cardin	Gray (IL)	McCloskey
Carper	Gray (PA)	McCrery
Carr	Green	McCurdy
Chandler	Guarini	McDade
Chapman	Gunderson	McGrath
Chappell	Hall (OH)	McHugh
Cheney	Hall (TX)	McMillan (NC)
Clarke	Hamilton	McMillen (MD)
Clement	Hammerschmidt	Meyers
Clinger	Hansen	Mfume
Coats	Harris	Michel
Coble	Hastert	Miller (CA)
Coelho	Hatcher	Miller (OH)
Coleman (MO)	Hayes (LA)	Miller (WA)
Coleman (TX)	Hefley	Mineta
Collins	Henry	Moakley
Conte	Herger	Molinari
Conyers	Hertel	Mollohan
Cooper	Hiler	Montgomery
Costello	Hochbrueckner	Moody
Coughlin	Hopkins	Moorhead
Coyne	Horton	Morella
Craig	Houghton	Morrison (WA)
Crockett	Hoyer	Mrazek
Dannemeyer	Hubbard	Murphy
Darden	Huckaby	Murtha
Daub	Hughes	Myers
Davis (IL)	Hutto	Nagle
de la Garza	Hyde	Natcher
DeFazio	Inhofe	Neal
Dellums	Ireland	Nelson

Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—7

Combest
Crane
DeLay
Hunter
Sensenbrenner
Shumway
Stump

NOT VOTING—35

Badham
Boulter
Clay
Courter
Davis (MI)
Donnelly
Dowdy
Eckart
Espy
Fish
Ford (MI)
Ford (TN)
Gregg
Hawkins
Hayes (IL)
Hefner
Holloway
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Mica
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss
Weldon

□ 1940

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SMALL BUSINESS INVESTMENT ACT OF 1958 AMENDMENTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 437, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the Senate bill, S. 437, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 372, nays 28, not voting 31, as follows:

[Roll No. 386]

YEAS—372

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Chandler
Chapman
Chappell
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frank
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (LA)
Hefley
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Payne
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—28

Armey
Ballenger
Boehlert
Brown (CO)
Bunning
Carr
Cheney
Combest
Dannemeyer
Dornan (CA)
Dreier
Fawell
Gallegly
Gradison
Green
Hammerschmidt
Hansen
Hastert
Henry
Herger
Nielson
Packard
Regula
Shumway
Smith, Denny (OR)
Smith, Robert (NH)
Stump
Wortley

NOT VOTING—31

Badham
Boulter
Clay
Courter
Donnelly
Dowdy
Eckart
Espy
Ford (MI)
Ford (TN)
Gregg
Hawkins
Hayes (IL)
Hefner
Kasich
Kemp
Kleczka
Levin (MI)
Levine (CA)
Lott
Lowry (WA)
Lungren
Mack
MacKay
McCollum
McEwen
Morrison (CT)
Slaughter (NY)
Sweeney
Weiss
Weldon

□ 1947

The Clerk announced the following pair:

On this vote:

Mr. Eckart and Mr. Hayes of Illinois for, with Mr. Boulter against.

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the Senate bill was amended so as to read: "An act to authorize the refinancing of certain small business debentures, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3718) was laid on the table.

PERSONAL EXPLANATION

Mr. ROE. Mr. Speaker, as chairman of the Science, Space, and Technology Committee, I led a delegation of distinguished Members of the House down to observe the rebirth of our manned space flight program. With the launch of the space shuttle *Discovery* last Thursday and its safe return today, the United States has continued its journey toward the heavens. We have suffered many wounds in the 32 months since the *Challenger* disaster, but with this flight we have begun to heal those wounds and again find direction for our dreams and actions.

This was truly an inspiring moment not only for the space program, but for the entire Nation. The return of the *Discovery* to space marks a revitalization of America's pride. Cheers and smiles for the *Discovery* have replaced the tears and shock the *Challenger* accident wrought. Mr. Speaker, we have seen the bleakness and felt the despair of our failures, now we have the opportunity to renew our energy and reach out to the future.

We have signed an agreement with our allies to work together building a permanent presence in space. The space station Freedom is the next step in the exploration of our final frontier. I hope my colleagues share my enthusiasm for the future and will work with me to seize this moment and carry it forward in providing our space program with the means and direction necessary to again make the United States the undisputed champion of space exploration.

Mr. Speaker, in attending that launch of the space shuttle, I and several of my colleagues were unable to record our positions on several votes. I would take this opportunity to record how I would have voted on these issues had I been present.

On the evening of September 28 rollcall No. 362, I would have voted "nay" on the Burton amendment to the Federal Equitable Pay Practices Act; and rollcall No. 363, I would have voted "yea" on the Bartlett amendment to that same bill.

On September 29 rollcall No. 364, I would have voted "yea" on the Agriculture Appropriations Conference Report; rollcall No. 365, I would have voted "yea" on the legislative branch appropriations conference report; rollcall No. 366, I would have voted "yea" on the resolution to provide for a motion to concur in the Senate amendment No. 119 to the foreign aid appropriation conference report; rollcall No. 267, I would have voted "yea" on concurring in this same Senate amendment; rollcall No. 370, I would have voted "nay" on the Burton amendment to the Federal Equitable Pay Practices act; and rollcall No. 371, I would have voted "yea" on passage of that same bill.

APPOINTMENT OF CONFEREES ON H.R. 515, FAIR CREDIT AND CHARGE CARD DISCLOSURE ACT OF 1987

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 515) to provide for more detailed and uniform disclosure by credit and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card, with a Senate amendment thereto, disagree with the Senate amendment and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

Mr. WALKER. Mr. Speaker, reserving the right to object, if I understand correctly, the committee is simply going to conference on the bill?

Mr. ST GERMAIN. Mr. Speaker, if the gentleman will yield, that is correct.

The SPEAKER. The gentleman is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island? The Chair hears none, and appoints the following conferees: Messrs: ST GERMAIN, ANNUNZIO, GONZALEZ, Ms. PELOSI, and Messrs: BARNARD, SCHUMER, WYLIE, SHUMWAY, HILER, and RIDGE.

NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. ASPIN. Mr. Speaker, pursuant to the provisions of House Resolution 557, I call up from the Speaker's table the Senate bill (S. 2749) to authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and ask for its immediate consideration in the House.

MOTION OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ASPIN moves to strike all after the enacting clause of the Senate bill, S. 2749, and insert the provisions of H.R. 4481 as passed by the House on July 12, 1988, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Savings Act of 1988".

SEC. 2. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS.

The Secretary of Defense shall—

(a) close all the military installations that are recommended for closure by the Commission on Base Realignment and Closure in the report transmitted to the Secretary pursuant to the charter establishing such Commission;

(b) realign all the military installations that are recommended for realignment by such Commission in such report; and

(c) initiate all such closures and realignments no later than September 30, 1991, and complete all of them no later than September 30, 1995, except that no such closure or realignment may be initiated before January 1, 1990.

SEC. 3. CONDITIONS.

(a) IN GENERAL.—The Secretary may not carry out any closure or realignment of a military installation under this Act unless—

(1) no later than January 16, 1989, the Secretary transmits to the Committees on Armed Services of the Senate and House of Representatives a report containing a statement that the Secretary has decided to accept and implement all of the closures and realignments of military installations that were recommended by the Commission in the report described in section 2; and

(2) the installation is recommended for closure or realignment, as the case may be, by the Commission in the report described in section 2.

(b) JOINT RESOLUTION.—(1) The Secretary may not carry out any closures or realignment under this Act if, within the 45-day period beginning on March 1, 1989, a joint resolution described in paragraph (2) is enacted disapproving the recommendations of the Commission. The days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of such 45-day period.

(2) For the purpose of paragraph (1), the term "joint resolution" means only a joint resolution which is introduced after the date on which the report of the Secretary referred to in section (2) is received by Congress and—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Commission on Base Realignment and Closure established by the Secretary of Defense as submitted to the Secretary of Defense on ", the blank space being appropriately filled in; and

(C) the title of which is as follows: "Joint resolution disapproving the recommendations of the Commission on Base Realignment and Closure.".

(3) A resolution described in paragraph (2) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in paragraph (2) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate.

(4) If the committee to which a resolution described in paragraph (2) is referred has not reported such resolution (or an identical resolution) by March 15, 1989, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5)(A) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House, on the next day after the day on which such Member gives notice to the presiding officer thereof, to move to proceed to the consideration of the resolution, and

all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a resolution described in paragraph (2), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (2) shall be decided without debate.

(6) If, before the passage by one House of a resolution of that House described in paragraph (2) that House receives from the other House a resolution described in paragraph (2), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (2) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the voice on final passage shall be on the resolution of the other House.

(7) The procedures contained in paragraphs (3) through (6) are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (2), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(c) TERMINATION.—The authority of the Secretary to carry out any closure or realignment under this Act shall terminate on October 1, 1995.

SEC. 4. THE COMMISSION.

(a) IN GENERAL.—The Commission—

(1) shall transmit the report described in section (2) to the Secretary no later than December 31, 1988, including a description of the Commission's recommendations of the military installations to which functions will be transferred as a result of the realignments and closures recommended by the Commission; and

(2) on the same date on which the Commission transmits such report to the Secretary, transmit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a copy of such report; and

(B) a statement by which the Commission certifies that it has identified the military installations to be closed or realigned by reviewing all military installations inside the United States, including those under construction or planned, and has considered the equitable geographic distribution throughout the United States of such recommended closures and realignments.

(b) STAFF.—

(1) Subject to paragraph (2), the professional staff of the Commission should be selected on the basis of their training, experience, and attainments and in a manner that will assure the impartiality and independence of the Commission to the maximum extent feasible. Each such professional staff member should be appointed on the basis of the individual's ability to perform the professional duties required by the Commission.

(2) Not more than one-half of the professional staff of the Commission shall be individuals who have been employed by the Department of Defense during calendar year 1988.

SEC. 5. IMPLEMENTATION.

(a) IN GENERAL.—In closing or realigning a military installation under this Act, the Secretary—

(1) subject to the availability of funds authorized and appropriated to the Department of Defense for use in planning and design, minor construction, or operation and maintenance, and the availability of funds in the Account, may carry out actions necessary to implement such closure or realignment, including acquiring land, constructing replacement facilities, relocating activities, and conducting advance planning and design as may be required to transfer functions from such military installation to another;

(2) subject to the availability of funds authorized and appropriated to the Department of Defense for economic adjustment assistance or community planning assistance and the availability of funds in the Account shall provide—

(A) economic adjustment assistance to any community located near an installation being closed or realigned; and

(B) community planning assistance to any community located near an installation to which functions will be transferred as a result of such closure or realignment;

if the Secretary determines that the financial resources available to the community (by grant or otherwise) for such purposes are inadequate; and

(3) subject to the availability of funds authorized and appropriated to the Department of Defense for environmental restoration and the availability of funds in the Account, may carry out activities for the purpose of environmental restoration, including reducing, removing, and recycling hazardous wastes and removing unsafe buildings and debris.

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) Before any real property or facility under the control of the Department of Defense and located at a military installation to be closed or realigned under this Act is transferred to the General Services Administration for disposal, the Secretary shall notify all military departments, agencies, and other instrumentalities (including nonappropriated fund instrumentalities) within the Department of Defense of the availability of such property or facility and may transfer, without reimbursement, such property or facility to any such department, agency, or instrumentality, except that the Secretary shall give a priority to any such department, agency, or other instrumentality that offers to pay fair market value for the property or facility. For purposes of this paragraph, fair market value shall be determined on the basis of the value of the property as it is being used at the time of such notification.

(2) All proceeds—

(A) from any transfer under paragraph (1); and

(B) from the disposal of any property or facility that was transferred to the General Services Administration by the Secretary as a result of a closure or realignment under this Act, shall be deposited into the Account established by section 8(a)(1), except that the General Services Administration shall be reimbursed from such proceeds for any expenses incurred in disposing of such property or facility.

(3) After the General Services Administration has accepted any real property or facility located at a military installation closed or realigned, or to be closed or realigned, under this Act, the Secretary may not expend funds to maintain, secure, or operate the property or facility unless such maintenance, security, or operation is carried out pursuant to an agreement entered into between the Secretary and the Administrator of the General Services Administration that provides for reimbursement by such Administration to the Department of Defense of all expenses incurred by the Department in providing such maintenance, security, or operation.

(c) APPLICABILITY OF OTHER LAW.—(1) The provisions of the National Environmental Policy Act of 1969 shall not apply to—

(A) the actions of the Commission, including selecting the military installations which it recommends for closure or realignment under this Act, selecting any military installation to receive functions from an installation to be closed or realigned, and making its report to the Secretary and the Congress under section 4(a); and

(B) the actions of the Secretary in establishing the Commission, in determining whether to accept the recommendations of the Commission, in selecting any military installation to receive functions from an installation to be closed or realigned, and in transmitting the report to the Congress under section (3).

(2) The provisions of the National Environmental Policy Act of 1969 shall apply to the actions of the Secretary (A) during the process of the closing or realigning of a military installation after such military installation has been selected for closure or realignment but before the installation is closed or realigned and the functions relocated, and (B) during the process of the relocating of functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated. In applying the provisions of such Act, the Secretary shall not have to consider—

(i) the need for closing or realigning a military installation which has been selected for closure or realignment by the Commission;

(ii) the need for transfering functions to another military installation which has been selected as the receiving installation; or

(iii) alternative military installations to those selected.

(3) A civil action for judicial review, with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under paragraph (2), or with respect to any requirement of the Commission made by this Act, of any action or failure to act by the Secretary during the closing, realigning, or relocating referred to in clauses (A) and (B) of paragraph (2), or of any action or failure to act by the Commission under this Act, may not be brought later than the 60th day after the date of such action or failure to act, except that, with respect to any such action or failure to act by the Secretary, if a party shows that he did not know of the act or failure to act by the Secretary and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action not later than the 60th day after the date such party acquired actual or constructive knowledge of such action or failure to act.

SEC. 6. WAIVER.

The Secretary may carry out this Act without regard to—

(a) laws restricting the use of funds for closing or realigning military installations included in appropriation or authorization Acts, other than this Act; and

(b) the procedures set forth in sections 2662 and 2687 of title 10, United States Code.

SEC. 7. REPORTS.

As part of each annual request for authorization of appropriations, the Secretary shall transmit to the Committees on Armed Services of the Senate and the House of Representatives—

(a)(1) a schedule of the closure and realignment actions to be carried out under this Act in the fiscal year for which the request is made and an estimate of the total cost savings to be achieved by each such closure and realignment and of the time period in which these savings are to be achieved in each case, together with an assessment of the environmental effects of such actions; and

(2) a description of the military installations, including those under construction or planned, to which functions will be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental effects of such transfers.

(b) The Secretary shall conduct a study of actions planned with respect to military installations of the United States outside the United States which may affect the recommendations of the Commission and shall, no later than September 15, 1988, transmit a report of the findings and conclusions of such study to the Commission and to the Committees on Armed Services of the Senate and House of Representatives.

SEC. 8. FUNDING.

(a) ACCOUNT.—(1) There is hereby established on the books of the Treasury the Department of Defense Base Closure Account which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account—

(A) funds appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress; and

(C) proceeds described in section 5(b)(2).

(3) Not more than $300,000,000 is authorized to be appropriated and transferred to the Account in any fiscal year.

(4) The Secretary may use the funds in the Account only for the purposes described in section 5(a). When a decision is made to use funds in the Account to carry out a construction project under section 5(A)(1) and the cost of the project will be greater than the maximum amount for a minor construction project, the Secretary shall notify in writing the appropriate committees of Congress of the nature of and justification for the project and the amount of expenditures for it.

(5) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this Act, the Secretary shall transmit a report to the appropriate committees of Congress of the amount and nature of the deposits into, and the expenditures from, the accounting during such fiscal year and of the amount of other expenditures made pursuant to section 5(a) during such fiscal year.

(6) Unobligated funds which remain in the Account after the termination of the authority of the Secretary to carry out a closure or realignment under this Act shall be held in the Account until transferred by law after the appropriate committees of Congress receive the report transmitted under paragraph (7).

(7) No later than 60 days after the termination of the authority of the Secretary to carry out a closure or realignment under this Act, the Secretary shall transmit to the appropriate committees of Congress a report containing an accounting of—

(A) all the funds deposited into and expended from the Account or otherwise expended under this Act; and

(B) any amount remaining in the Account.

SEC. 9. DEFINITIONS.

In this Act:

(1) The term "Account" means the Department of Defense Base Closure Account established by section 8(A)(1).

(2) The term "appropriate committees of Congress" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(3) The terms "Commission on Base Realignment and Closure" and "Commission" means the Commission established by the Secretary of Defense in the charter signed by the Secretary on May 3, 1988.

(4) The term "charter establishing such Commission" means the charter referred to in paragraph (3).

(5) The term "initiate" includes any action reducing functions or civilian personnel positions but does not include studies, planning, or similar activities carried out before there is a reduction of such functions or positions.

(6) The term "military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department.

(7) The term "realignment" means any action which both reduces and relocates functions and civilian personnel positions.

(8) The term "Secretary" means the Secretary of Defense.

(9) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other Commonwealth, territory, or possession of the United States.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to provide for the closing and realigning of certain military installations during a certain period."

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2749, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. ASPIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ASPIN moves that the House insist on its amendment to S. 2749 and requests a conference with the Senate thereon.

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees:

From the Committee on Armed Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. ASPIN, DELLUMS, MONTGOMERY, HUTTO, SKELTON, LEATH of Texas, MCCURDY, FOGLIETTA, HERTEL, ORTIZ, ROBINSON, DICKINSON, and MARTIN of New York, Mrs. Martin of Illinois, and Messrs. BLAZ, RAVENEL, AND WELDON.

From the Committee on Government Operations, for consideration of section 921 of the Senate bill, and the House amendment, and modifications committed to conference: Mr. BROOKS, Mr. CONYERS, Mrs. COLLINS, Mr. HORTON, and Mr. WALKER.

From the Committee on Merchant Marine and Fisheries, for consideration of section 921 of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, HUTTO, DAVIS of Michigan, and YOUNG of Alaska.

From the Committee on Rules, for consideration of section 921 of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. PEPPER, MOAKLEY, DERRICK, BEILENSON, FROST, QUILLEN, and TAYLOR.

As additional conferees, for consideration of section 921 of the Senate bill, and the House amendment, and modifications committed to conference: Mr. FOLEY and Mr. ARMEY.

APPOINTMENT OF CONFEREES ON H.R. 3235, HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1987

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3235) to amend the Public Health Service Act and to revise the program of assistance for Health Maintenance Organizations, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. DINGELL, WAXMAN, WYDEN, LENT, and MADIGAN.

RESIGNATION AS MEMBER OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION AND AS MEMBER OF COMMITTEE ON VETERANS' AFFAIRS

The SPEAKER laid before the House the following resignation as a member of the Committee on Public Works and Transportation and as a Member of the Committee on Veterans Affairs:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 3, 1988.

Hon. JIM WRIGHT, Jr.,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: After twenty-four years, it is with deep regret that I tender my resignation from the House Committee on Public Works and Transportation and the House Committee on Veterans Affairs effective immediately.

Sincerely yours,

KENNETH J. GRAY,
U.S. Congressman.

The SPEAKER. Without objection, the resignations are accepted.

There was no objection.

RESIGNATION AS MEMBER OF THE SELECT COMMITTEE ON AGING AND ITS SUBCOMMITTEE ON HEALTH AND LONG-TERM CARE

The SPEAKER laid before the House the following resignation as a member of the Select Committee on Aging and its Subcommittee on Health and Long-Term Care:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 3, 1988.

Hon. JIM WRIGHT,
Speaker of The House,
Washington, DC.

DEAR MR. SPEAKER: I respectfully submit my resignation from the Select Committee on Aging, and its Subcommittee on Health and Long Term Care, effective on October 3rd, 1988.

As always, if there is anything I can do for you, please don't hesitate to contact me.

With kind regards,
Sincerely,

DANIEL A. MICA,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT AS MEMBER OF SELECT COMMITTEE ON AGING

The SPEAKER. Pursuant to clause 6 (f) and (i) of rule X, the Chair appoints to the Select Committee on Aging the gentleman from Illinois, [Mr. COSTELLO], to fill the existing vacancy thereon.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972 AUTHORIZATION FOR FISCAL YEARS 1989 AND 1990

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4210) to reauthorize title II of the Marine Protection, Research, and Sanctuaries Act of 1972, for fiscal years 1989 an 1990, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COMPREHENSIVE OCEAN DUMPING RESEARCH PROGRAM AMENDMENTS AND AUTHORIZATION

SEC. 101. RESEARCH TO BE CONSISTENT WITH COMPREHENSIVE PLAN.

Subsection (a) of section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(a)) is amended by adding at the end the following:

"(3) The Secretary of Commerce shall ensure that the comprehensive and continuing research program conducted under this subsection is consistent with the comprehensive plan for ocean pollution research and development and monitoring prepared under section 4 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1703).".

SEC. 102. ANNUAL REPORT.

Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended by adding at the end the following:

"(c) On October 31 of each year, the Under Secretary shall report to the Congress the specific programs that the National Oceanic and Atmospheric Administration and the Environmental Protection Agency carried out pursuant to this title in the previous fiscal year, specifically listing the amount of funds allocated to those specific programs in the previous fiscal year.".

SEC. 103. AUTHORIZATION.

Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is amended—

(1) by striking "and" immediately following "fiscal year 1986,"; and

(2) by striking "1987." and inserting in lieu thereof "1987, not to exceed $13,500,000 for fiscal year 1989, and not to exceed $14,500,000 for fiscal year 1990.".

TITLE II—NATIONAL MARINE SANCTUARIES PROGRAM AMENDMENTS AND AUTHORIZATION

SEC. 201. DEFINITION OF ACT.

For purposes of this title, the term "Act" means title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431-1439).

SEC. 202. SANCTUARY DESIGNATION PROCEDURE AMENDMENTS.

Paragraph (1) of section 304(b) of the Act (16 U.S.C. 1434(b)(1)) is amended by inserting after the second sentence the following: "The Secretary shall issue a notice of designation with respect to a proposed national marine sanctuary site not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register under regulations issued under this Act, or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published.".

SEC. 203. PROMOTION AND COORDINATION OF RESEARCH; SPECIAL USE PERMITS; USE OF DONATIONS.

The Act is amended—

(1) by striking section 308;

(2) by redesignating section 309 as section 308; and

(3) by adding at the end the following:

"SEC. 309. PROMOTION AND COORDINATION OF RESEARCH.

"The Secretary shall take such action as is necessary to promote and coordinate the use of national marine sanctuaries for research purposes, including—

"(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting marine research, give priority to research involving national marine sanctuaries; and

"(2) consulting with other Federal and State agencies to promote use by such agencies of one or more sanctuaries for marine research.

"SEC. 310. SPECIAL USE PERMITS.

"(a) ISSUANCE OF PERMITS.—The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

"(1) to establish conditions of access to and use of any sanctuary resource; or

"(2) to promote public use and understanding of a sanctuary resource.

"(b) PERMIT TERMS.—A permit issued under this section—

"(1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

"(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

"(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

"(4) shall require the permittee to purchase and maintain comprehensive general liability insurance against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

"(c) FEES.—

"(1) ASSESSMENT AND COLLECTION.—The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.

"(2) AMOUNT.—The amount of a fee under this subsection shall be equal to the sum of—

"(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

"(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

"(C) an amount which represents the fair market value of the use of the sanctuary resource and a reasonable return to the United States Government.

"(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

"(A) for issuing and administering permits under this section; and

"(B) for expenses of designating and managing national marine sanctuaries.

"(d) VIOLATIONS.—Upon violation of a term or condition of a permit issued under this section, the Secretary may—

"(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

"(2) assess a civil penalty in accordance with section 307; or

"(3) both.

"(e) REPORTS.—Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

"(f) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

"SEC. 311. COOPERATIVE AGREEMENTS AND DONATIONS.

"(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with any nonprofit organization—

"(1) to aid and promote interpretive, historical, scientific, and educational activities; and

"(2) for the solicitation of private donations for the support of such activities.

"(b) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title.".

SEC. 204. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

(a) LIABILITY FOR DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.—The Act is amended by adding at the end the following:

"SEC. 312. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

"(a) LIABILITY.—

"(1) IN GENERAL.—Subject to paragraph (3), any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(2) LIABILITY IN REM.—Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(3) DEFENSES.—A person is not liable under this subsection if that person establishes that—

"(A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

"(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

"(C) the destruction, loss, or injury was negligible.

"(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

"(1) RESPONSE ACTIONS.—The Secretary may undertake all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

"(2) DAMAGE ASSESSMENT.—The Secretary shall assess damages to sanctuary resources in accordance with section 302(6).

"(c) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—The Attorney General, upon request of the Secretary, may commence a civil action in the United States district court for the appropriate district against any person or vessel who may be liable under subsection (a) for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

"(d) USE OF RECOVERED AMOUNTS.—Response costs and damages recovered by the Secretary under this section and civil penalties under section 307 shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9607(f)(1)), and used as follows:

"(1) RESPONSE COSTS AND DAMAGE ASSESSMENTS.—Twenty percent of amounts recovered under this section, up to a maximum balance of $750,000, shall be used to finance response actions and damage assessments by the Secretary.

"(2) RESTORATION, REPLACEMENT, MANAGEMENT, AND IMPROVEMENT.—Amounts remaining after the operation of paragraph (1) shall be used, in order of priority—

"(A) to restore, replace, or acquire the equivalent of the sanctuary resources which were the subject of the action;

"(B) to manage and improve the national marine sanctuary within which are located the sanctuary resources which were the subject of the action; and

"(C) to manage and improve any other national marine sanctuary.

"(3) USE OF CIVIL PENALTIES.—Amounts recovered under section 307 in the form of civil penalties shall be used by the Secretary in accordance with section 307(e) and paragraphs (2)(B) and (C) of this subsection.

"(4) FEDERAL-STATE COORDINATION.—Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2)(A) and (B) in accordance with an agreement entered into by the Secretary and the Governor of that State.".

(b) DAMAGES, RESPONSE COSTS, AND SANCTUARY RESOURCE DEFINED.—Section 302 of the Act (16 U.S.C. 1432) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period in paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) 'damages' includes—

"(A) compensation for—

"(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

"(II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

"(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired; and

"(B) the cost of damage assessments under section 312(b)(2);

"(7) 'response costs' means the costs of actions taken by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury; and

"(8) 'sanctuary resource' means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the sanctuary.".

(c) EFFECTIVE DATE.—Amounts in the form of damages received by the United States after November 30, 1986, for destruction or loss of, or injury to, a sanctuary resource (as that term is defined in section 302(8) of the Act (as amended by this Act)) shall be subject to section 312 of the Act (as amended by this Act).

SEC. 205. ACTIONS WITH RESPECT TO NEW SANCTUARIES.

(a) ISSUANCE OF NOTICE OF DESIGNATION.—The Secretary of Commerce shall issue a notice of designation under section 304(b)(1) of the Act (16 U.S.C. 1434(b)(1))—

(1) with respect to the proposed Cordell Banks National Marine Sanctuary as generally described in the Federal Register notice of June 30, 1983, not later than December 31, 1988;

(2) with respect to the Flower Garden Banks National Marine Sanctuary as generally described in the Federal Register notice of August 2, 1984, not later than March 31, 1989;

(3) with respect to the Monterey Bay National Marine Sanctuary as generally described in the Federal Register notice of December 31, 1979, not later than December 31, 1989; and

(4) with respect to the Western Washington Outer Coast National Marine Sanctuary as generally described in the Federal Register notice of August 4, 1983, not later than June 30, 1990.

(b) SUBMISSION OF PROSPECTUSES.—The Secretary of Commerce shall submit a prospectus under section 304(a)(1)(C) of the Act (16 U.S.C. 1434(a)(1)(C)) to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate—

(1) with respect to the Stellwagen Bank National Marine Sanctuary, as generally described in the Federal Register notice of August 4, 1983, not later than September 30, 1990; and

(2) with respect to the Northern Puget Sound National Marine Sanctuary, as generally described as the Washington State Nearshore area in the Federal Register notice of August 4, 1983, not later than March 31, 1991.

SEC. 206. STUDY OF AREAS FOR DESIGNATION AS OR INCLUSION IN NATIONAL MARINE SANCTUARIES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Commerce shall conduct a study of the areas described in subsection (c) for purposes of making determinations and findings in ac-

cordance with section 303(a) of the Act (16 U.S.C. 1433(a))—

(A) regarding whether or not all or any part of such areas are appropriate for designation as national marine sanctuaries in accordance with the Act; and

(B) regarding whether or not all or any part of the areas described in subsection (c)(1), (2), and (3) should be added to and administered as part of the Key Largo National Marine Sanctuary or the Looe Key National Marine Sanctuary.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate which sets forth the determinations and findings referred to in paragraph (1).

(b) DESIGNATION OR EXPANSION OF MARINE SANCTUARIES.—If as a result of a study conducted pursuant to subsection (a) the Secretary of Commerce makes the determinations and findings set forth in section 303(a) of the Act (16 U.S.C. 1433(a)) with respect to all or any part of the areas described in subsection (c), the Secretary of Commerce, in accordance with the procedures for the designation of national marine sanctuaries set forth in section 304 of the Act (16 U.S.C. 1434)—

(1) shall designate such areas or parts of such areas as national marine sanctuaries; or

(2) shall, with respect to all or any part of the areas described in subsections (c) (1), (2), and (3), add such areas or parts of such areas to the Key Largo National Marine Sanctuary or the Looe Key National Marine Sanctuary;

as the Secretary of Commerce considers appropriate.

(c) AREAS DESCRIBED.—The areas referred to in subsections (a) and (b) are the following:

(1) AMERICAN SHOAL.—The portion of the marine environment in the Florida Keys in the vicinity of American Shoal, including the part of such environment located generally between such shoal and the Marquesas Keys.

(2) SOMBRERO KEY.—The portion of the marine environment in the Florida Keys in the vicinity of and surrounding Sombrero Key.

(3) ALLIGATOR REEF.—The portion of the marine environment in the Florida Keys in the vicinity of and surrounding Alligator Reef, including the portion located generally between such reef and the Key Largo National Marine Sanctuary.

(4) SANTA MONICA BAY.—The portion of the marine environment off the coast of California commonly referred to as Santa Monica Bay, consisting of an area described generally as follows: Beginning at the point known as Point Dume near the western extent of Santa Monica Bay, proceed generally southeast along the shoreline to the point known as Point Vincente near the southern extent of Santa Monica Bay; then west to the 900 meter bathymetric contour; then generally northwest along the 900 meter bathymetric contour to a point due west of Point Dume; then east to Point Dume at the point of beginning.

(d) DEFINITION OF MARINE ENVIRONMENT.—For the purposes of this section, the term "marine environment" has the meaning such term has in section 302(3) of the Act (16 U.S.C. 1432(b)).

SEC. 207. ENFORCEMENT AMENDMENTS.

Section 307 of the Act (16 U.S.C. 1437) is amended to read as follows:

"SEC. 307. ENFORCEMENT.

"(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title.

"(b) POWERS OF AUTHORIZED OFFICERS.—Any person who is authorized to enforce this title may—

"(1) board, search, inspect, and seize any vessel suspected of being used to violate this title or any regulation or permit issued under this title and any equipment, stores, and cargo of such vessel;

"(2) seize wherever found any sanctuary resource taken or retained in violation of this title or any regulation or permit issued under this title;

"(3) seize any evidence of a violation of this title or of any regulation or permit issued under this title;

"(4) execute any warrant or other process issued by any court of competent jurisdiction; and

"(5) exercise any other lawful authority.

"(c) CIVIL PENALTIES.—

"(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates this title or any regulation or permit issued under this title shall be liable to the United States for a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) NOTICE.—No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

"(3) IN REM JURISDICTION.—A vessel used in violating this title or any regulation or permit issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction.

"(4) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.

"(5) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"(6) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

"(d) FORFEITURE.—

"(1) IN GENERAL.—Any vessel (including the vessel's equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this title or of any regulation or permit issued under this title shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection.

"(2) APPLICATION OF THE CUSTOMS LAWS.—The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this title.

"(3) DISPOSAL OF SANCTUARY RESOURCES.—Any sanctuary resource seized pursuant to this title may be disposed of pursuant to an order of the appropriate court, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

"(4) PRESUMPTION.—For the purposes of this section there is a rebuttable presumption that all sanctuary resources found on board a vessel that is used or seized in connection with a violation of this title or of any regulation or permit issued under this title were taken or retained in violation of this title or of a regulation or permit issued under this title.

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—

"(1) IN GENERAL.—Notwithstanding any other law, the Secretary may use amounts received under this section in the form of civil penalties, forfeitures of property, and costs imposed under paragraph (2) to pay—

"(A) the reasonable and necessary costs incurred by the Secretary in providing temporary storage, care, and maintenance of any sanctuary resource or other property seized under this section pending disposition of any civil proceeding relating to any alleged violation with respect to which such property or sanctuary resource was seized; and

"(B) a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or of any regulation or permit issued under this title.

"(2) LIABILITY FOR COSTS.—Any person assessed a civil penalty for a violation of this title or of any regulation or permit issued under this title, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.

"(f) SUBPOENAS.—In the case of any hearing under this section which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths.

"(g) USE OF RESOURCES OF STATE AND OTHER FEDERAL AGENCIES.—The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

"(h) COAST GUARD AUTHORITY NOT LIMITED.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

"(i) INJUNCTIVE RELIEF.—If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctu-

ary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 312, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.".

SEC. 208. AUTHORIZATION OF APPROPRIATIONS; U.S.S. MONITOR ARTIFACTS AND MATERIALS.

The Act is amended by adding at the end the following:

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out this title the following:

"(1) GENERAL ADMINISTRATION.—For general administration of this title—

"(A) $1,800,000 for fiscal year 1989;

"(B) $1,900,000 for fiscal year 1990;

"(C) $2,000,000 for fiscal year 1991; and

"(D) $2,100,000 for fiscal year 1992.

"(2) MANAGEMENT OF SANCTUARIES.—For management of national marine sanctuaries designated under this title—

"(A) $2,000,000 for fiscal year 1989;

"(B) $2,500,000 for fiscal year 1990;

"(C) $3,000,000 for fiscal year 1991; and

"(D) $3,250,000 for fiscal year 1992.

"(3) SITE REVIEW AND ANALYSIS.—For review and analysis of sites for designation under this title as national marine sanctuaries—

"(A) $450,000 for fiscal year 1989;

"(B) $500,000 for fiscal year 1990;

"(C) $550,000 for fiscal year 1991; and

"(D) $600,000 for fiscal year 1992.

"SEC. 314. U.S.S. MONITOR ARTIFACTS AND MATERIALS.

"(a) CONGRESSIONAL POLICY.—In recognition of the historical significance of the wreck of the United States ship Monitor to coastal North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina.

"(b) INTERPRETATION AND DISPLAY OF ARTIFACTS.—

"(1) SUBMISSION OF PLAN.—The Secretary shall, within six months after the date of the enactment of this section, submit to the Committee on Merchant Marine and Fisheries of the House of Representatives a plan for a suitable display in coastal North Carolina of artifacts and materials of the United States ship Monitor.

"(2) CONTENTS OF PLAN.—The plan submitted under subsection (a) shall, at a minimum, contain—

"(A) an identification of appropriate sites in coastal North Carolina, either existing or proposed, for display of artifacts and materials of the United States ship Monitor;

"(B) an identification of suitable artifacts and materials, including artifacts recovered or proposed for recovery, for display in coastal North Carolina;

"(C) an interpretive plan for the artifacts and materials which focuses on the sinking, discovery, and subsequent management of the wreck of the United States ship Monitor; and

"(D) a draft cooperative agreement with the State of North Carolina to implement the plan.

"(c) DISCLAIMER.—This section shall not affect the following:

"(1) RESPONSIBILITIES OF SECRETARY.—The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.

"(2) AUTHORITY OF SECRETARY.—The authority of the Secretary to designate the Mariner's Museum, located at Newport News, Virginia, as the principal museum for coordination of activities referred to in paragraph (1).".

SEC. 209. CHANNEL ISLANDS NATIONAL MARINE SANCTUARY PROTECTION.

(a) REPORT.—The Secretary of Transportation, not later than 6 months after the date of the enactment of this Act, shall transmit to Congress—

(1) the provisions of international conventions and United States laws and regulations which reduce the risk of a vessel collision or incident resulting in damage to the environment in the Channel Islands National Marine Sanctuary;

(2) the provisions of the National Contingency Plan for removal of oil and hazardous substances prepared under section 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) which enable the Secretary to effectively respond to an oil pollution incident in or affecting the Channel Islands National Marine Sanctuary;

(3) a list of pollution exercises conducted under that National Contingency Plan in the Santa Barbara Channel before the date of the enactment of this Act, and a schedule of pollution exercises scheduled to be conducted under that plan in that channel during the 12 months following the date of the enactment of this Act; and

(4) a report on the establishment—

(A) under the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) of safety fairways off the coast of California; and

(B) of the Long Beach NAVTEX in Long Beach, California.

(b) STUDY REVIEW AND REPORT.—The Secretary of Transportation shall review all Federal, State, and local studies conducted on the hazards of shipping operations and the risks those operations pose to the environment and natural resources of the Channel Islands National Marine Sanctuary, and report to the Congress not later than 6 months after the date of the enactment of this Act on the status and recommendations of each of those studies. The Secretary shall include in the report a recommendation on whether an alternate vessel traffic separation scheme would reduce the risks of shipping operations to the environment and natural resources in the Channel Islands National Marine Sanctuary.

(c) PROPOSAL OF DESIGNATION OF AREA TO BE AVOIDED.—The Secretary of Transportation shall prepare and submit a proposal to the International Maritime Organization to designate the portion of the Channel Islands National Marine Sanctuary which is outside of the Santa Barbara Channel Traffic Separation Scheme, as an area to be avoided. The Secretary shall ensure that the proposal would not result in undue interference with international vessel traffic in the Santa Barbara Channel, with operations associated with the United States Navy Pacific Missile Test Range, or with enjoyment of the Channel Islands National Marine Sanctuary under title III of the National Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

SEC. 210. REGULATIONS.

Not later than one year after the date of the enactment of this Act, the Secretary of Commerce—

(1) shall propose regulations implementing the amendments made by this title; and

(2) shall issue final regulations implementing the amendments made by the Marine Sanctuaries Amendments of 1984.

TITLE III—NATIONAL OCEANS POLICY COMMISSION.

SEC. 301. SHORT TITLE.

This title may be cited as the "National Oceans Policy Commission Act of 1988.".

SEC. 302. FINDINGS.

The Congress finds that—

(1) the manner in which the oceans and the Great Lakes are used affects the national security, transportation needs, economy, food resources, energy and raw materials needs, international leadership, and the quality of the environment of the people of the United States;

(2) Presidential Proclamation 5030 of March 10, 1983, which established the Exclusive Economic Zone of the United States of America and proclaimed the sovereign rights of the United States over ocean resources out to 200 nautical miles from the coastline of the United States, requires the development and implementation of a comprehensive exploration and monitoring plan to adequately address the conservation and development of the zone;

(3) the work of the Commission of Marine Science, Engineering, and Resources (known as the "Stratton Commission") in the 1960's was instrumental in initially defining the structure of United States oceans policy, and led to the enactment of major ocean-related legislation and the establishing of key oceanic and atmospheric institutions;

(4) recent concern regarding expanding Federal expenditures has resulted in the retrenchment of many ocean initiatives of the 1970's and, as a result, the complexion of United States ocean programs has changed significantly; and

(5) with Federal fiscal resources expected to be severely limited at least to the end of the century, a reexamination of the Nation's oceans, Great Lakes, and atmospheric activities is needed, and a new coordinated and comprehensive national oceans policy, based on that reexamination, must be developed in order that wise use of the oceans and the Great Lakes can be implemented in a peaceful and balanced fashion.

SEC. 303. PURPOSE.

The purpose of this Act is to establish a commission to propose to the Congress and the President a comprehensive oceans policy (and develop recommendations for the implementation of that policy) that will assist the Congress and the President in—

(1) developing domestic policies and laws to promote the wise use and conservation of marine resources, including Great Lakes resources;

(2) developing international policies and laws to promote the peaceful uses of the oceans and balance the interests of all nations;

(3) promoting United States leadership in marine scientific research, facilities, and technology;

(4) developing the role and capacity of the United States in the monitoring and prediction of global oceanic and atmospheric processes; and

(5) appropriately allocating the responsibilities for marine and atomospheric re-

search and marine resource understanding, conservation, management, and development among the various levels of government and the private sector and promoting the efficient use of limited fiscal resources for such activities.

SEC. 304. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—There is established a commission to be known as the National Oceans Policy Commission (hereinafter referred to in this Act as the "Commission").

(b) NUMBER OF MEMBERS.—The Commission shall consist of 17 members who shall be appointed by the President in accordance with the provisions of this section not later than March 10, 1989.

(c) MEMBER QUALIFICATIONS.—The membership of the Commission shall be composed in such a manner as to provide that 14 of the members shall be appointed from the following qualification categories:

(1) 3 members shall be from private sector nonprofit organizations involved with national oceans policy (including, but not limited to, those with consumer and environmental interests).

(2) 5 members shall be from private sector commercial organizations involved with national oceans policy (includling, but not limited to, those with marine transportation and living and nonliving marine resource interests).

(3) 2 members shall be Governors, not of the same political party, of coastal states in different geographical regions.

(4) 2 members shall be specialists in marine science from the academic community.

(5) 2 members shall be selected from at large, at least one of whom shall be knowledgeable in international oceans policy.

(d) NOMINEES FOR MEMBERSHIP.—(1)(A) The Majority Leader of the Senate (hereinafter in this Act referred to as the "Majority Leader") and the Speaker of the House of Representatives (hereinafter referred to in this Act as the "Speaker"), in consultation with the Minority Leader of each House, respectively, shall each prepare a list of 14 nominees for appointment to the Commission.

(B) Each list of nominees prepared under subparagraph (A)—

(i) shall contain nominees that meet the qualifications set forth in subsection (c); but

(ii) may not contain any of the same nominees. No more than half of the nominees on each list may be members of the same policy party.

(C) The Majority Leader and the Speaker shall submit the lists prepared under subparagraph (A) to the President no later than February 10, 1989.

(D) The President shall appoint 7 members of the Commission from the list submitted by the Majority Leader and 7 members from the list submitted by the Speaker. No more than 7 members of the Commission appointed under this paragraph may be members of the same political party.

(2) The President shall make 3 appointments to the Commission in addition to those appointed under paragraph (1). Federal officers or employees or individuals employed in the private sector are eligible for appointment under this paragraph. No more than 2 of the individuals appointed under this paragraph may be members of the same political party.

(3) The President, the Majority Leader, and the Speaker shall jointly select a Chairman and Vice Chairman of the Commission from members appointed under paragraph (1)(D). The Vice Chairman shall act as Chairman in the absence of the Chairman.

(e) VACANCIES.—Except as may be required by electoral changes, members of the Commission shall be appointed to serve until the Commission terminates under section 312. In the event of a vacancy, a new member shall be appointed in the same manner in which the original appointment was made. In the case of the vacancy of a member appointed under subsection (d)(1)(D), the new member shall—

(1) be in the same qualification category under subsection (c) as the former member; and

(2) be appointed from a list of at least two nominees prepared by the Majority Leader or the Speaker, as appropriate.

(f) MEETING OF COMMISSION.—The Chairman or a majority of the members may call a meeting of the Commission.

SEC. 305. ADVISORS TO THE COMMISSION.

SEC. 5. (a) CONGRESSIONAL ADVISORS.—(1) The Commission shall have 8 congressional advisors who shall advise the Commission in the formulation of findings and recommendations. Four of the advisors are Members of the Senate selected by the Majority Leader and 4 of the advisors are Members of the House of Representatives selected by the Speaker. Each congressional advisor must have knowledge appropriate to the concerns of the Commission.

(2) No more than 2 of the congressional advisors from each House may be members of the same political party.

(b) MILITARY ADVISOR.—The Chairman of the Joint Chiefs of Staff, or his designee, shall serve in an advisory capacity to the Commission.

SEC. 1306. FUNCTIONS OF THE COMMISSION.

(a) COMPREHENSIVE POLICY.—(1) The Commission shall propose to the President and to Congress a comprehensive national oceans policy to carry out the purpose of this Act.

(2) The Commission shall develop recommendations on the international and domestic ocean policies, laws, regulations, and activities of the United States that will define and implement the comprehensive policy proposed under paragraph (1). The recommendations shall—

(A) address domestic (including the Great Lakes) and international marine policy issues;

(B) include any modifications in existing United States policies, laws, regulations, and practices necessary to develop efficient long-range programs for—

(i) research in marine and atmospheric sciences;

(ii) the understanding, conservation, management, and development of, marine resources, including Great Lakes Resources; and

(iii) the protection of the ocean environment;

(C) address the most appropriate allocation of responsibilities for research in marine and atmospheric sciences and for the understanding, conservation, management, and development of marine resources among Federal agencies, State and local government, and the private sector; and

(D) consider any other aspects of United States related policies, laws, regulations, and practices considered necessary by the Commission in carrying out its duties pursuant to this subsection.

(d) DEVELOPMENT OF RECOMMENDATIONS.—In developing recommendations under subsection (a), the Commission shall—

(1) survey and review all existing and planning ocean-related activities of Federal agencies, including those relating to navigation, marine research, national security and the conservation, management, and development of marine resources, and the protection of the marine environment;

(2) survey and review all existing and planned marine facilities and equipment, including surface ships, undersea research vehicles and habitats, computers, oceanographic satellites, and other appropriate research tools;

(3) evaluate the relationship among Federal agencies, State and local government and the private sector for planning and carrying out the activities described in this subsection, considering areas of substantial coincidence of interest and responsibilities among the various levels of government, academia, industry, and the public interest community and other users of the marine environment, in order to enhance the efficient use of marine resources;

(4) consider Presidental Proclamation 5030 of March 10, 1983, on the Exclusive Economic Zone of the United States of America, including an examination of opportunities and the need for economic development within the exclusive economic zone which have a major impact on the coastal zone of the States and the adequacy of present laws to manage such development in such a way as to minimize conflict;

(5) consider the relationships of United States policies to the Convention law of the Sea and actions available to the United States to affect peaceful collaborations between the United States and other nations, including the development of cooperative international marine programs which will facilitate opportunities for United States and foreign scientists to work together in the waters of the cooperating nations and to provide for the development of such programs in the United States; and

(6) engage in any other preparatory work deemed necessary to carry out the duties of the Commission pursuant to this section.

SEC. 307. POWERS OF THE COMMISSION.

(a) OBTAINING INFORMATION.—The Commission may secure directly from any department or agency of the United States any information it considers necessary to carry out its functions under this Act. Each department or agency shall cooperate with the Commission and, to the extent permitted by law, furnish information to the Commission upon request of the Chairman.

(b) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(c) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide to the Commission on a reimbursable basis the administrative support services that the Commission may request.

(d) CONTRACTUAL AUTHORITY.—The Commission may enter into contracts with Federal and State agencies, private firms, institutions, and individuals to assist the Commission in carrying out its duties. The Commission may purchase and contract without regard to sections 303 of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253), section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416), and section 8 of the Small Business Act (15 U.S.C. 637), pertaining to competition and publication requirements, and may arrange for printing without regard to

the provisions of title 44, United States Code. The contracting authority of the Commission under this Act is effective only to the extent that appropriations are available for contracting purposes.

SEC. 303 ADMINISTRATIVE PROVISIONS.

(a) DETAIL OF PERSONNEL.—Upon request of the Commission, the head of any Federal agency shall detail any of the personnel of the agency to the Commission to assist the Commission in carrying out its functions under this Act. To the extent feasible, such detail shall be on a reimbursable basis.

(b) VOLUNTEER SERVICES.—The Commission may accept and use the services of volunteers serving without compensation, and to reimburse volunteers for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code

(c) CONSULTANTS.—To the extent that funds are available, and subject to the rules that may be prescribed to the Commission, the Director appointed under section 309(a) may procure the temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code, but at rates not to exceed the rate of pay for GS-18 of the General Schedule.

(d) CONDUCT OF MEETINGS.—(1) All meetings of the Commission shall be open to the public, except when the Chairman or a majority of the members of the Commission determine that the meeting or any portion of it may be closed to the public. Interested persons shall be permitted to appear at open meetings and present oral or written statements on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(3) Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the office of the Commission.

(4) The Federal Advisory Committee Act (5 U.S.C. App. 1-15) does not apply to the Commission.

SEC. 309. DIRECTOR AND STAFF OF COMMISSION.

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the rate of basic pay for GS-18 of the General Schedule. The Director shall be knowledgeable in administrative management and oceans policy.

(b) STAFF.—Subject to such rules as may be prescribed by the Commission, the Director may hire staff for the Commission and shall fix appropriate compensation. The hiring and compensation of the Director and staff under this section may occur without regard to the provision of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 310. COMPENSATION OF MEMBERS.

(a) IN GENERAL.—Except as provided in subsection (b), members of the Commission shall be paid at a rate not to exceed the basic pay for a GS-18 of the General Schedule for each day, including traveltime, during which such members are engaged in the actual performance of the Commission duties.

(b) EXCEPTION.—A member of the Commission who is an officer or employee of the United States may not receive pay for service on the Commission, but shall be reimbursed from funds authorized by this Act for travel expenses including per diem in lieu of subsistence as may be authorized by law for persons in Government service employed intermittently.

SEC. 311. COMMISSION REPORT.

No later than 2 years after the Commission first meets, the Commission shall submit simultaneously to the President and to each House of the Congress a detailed final report regarding the comprehensive oceans policy and the recommendations required to be developed under section 306.

SEC. 312. TERMINATION OF THE COMMISSION.

The Commission shall cease to exist 30 days after the date of the submission of the final report under section 311.

SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums, but not to exceed $2,000,000, as are necessary to carry out this Act. Such sums are to remain available until expended.

TITLE IV—MISCELLANEOUS

The Secretary of the department in which the Coast Guard is operating shall transfer the Coast Guard cutter "INGHAM" to the Naval and Maritime Museum at Patriots Point, South Carolina. The Secretary shall transfer the "INGHAM" along with such equipment and in such condition as the Secretary considers appropriate. The Secretary shall make the transfer upon the decommissioning of the "INGHAM" or at a later time as determined appropriate by the Secretary.

The SPEAKER. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. I rise today to urge my colleagues to support H.R. 4210, a bill to reauthorize titles II and III of the Marine Protection, Research, and Sanctuaries Act to create a National Ocean Policy Commission, and other purposes.

H.R. 4210 will reauthorize title II of the MPRSA for fiscal year 1989, and fiscal year 1990. Title II authorizes the National Oceanic and Atmospheric Administration [NOAA] to conduct a comprehensive monitoring and research program of the effects of ocean dumping as well as the effects of pollution on the marine environment. By reauthorizing title II, we will be giving NOAA the necessary authorization to monitor and assess the health of our Nation's coastal waters and estuaries. I need not remind my colleagues of the importance of this effort at a time when we are all concerned with the fate of our marine and coastal environment.

Title II of H.R. 4210 reauthorizes NOAA's National Marine Sanctuaries Program for 4 years, from fiscal year 1989 through fiscal year 1992. It is very similar to H.R. 4208, which the House passed under suspension of the rules on July 26.

The amendments made by this bill will put the Marine Sanctuaries Program back on track by requiring the Secretary of Commerce to designate one new sanctuary each year for the next 4 years and to submit a proposal of designation, or prospectus, for two other sanctuaries.

In addition, H.R. 4210 gives the Secretary of Commerce the explicit authority to recover damages from persons who have destroyed or injured protected sanctuary resources and to use the damages on restoration of those resources.

Title III of H.R. 4210 establishes the National Oceans Policy Commission. This title is similar to H.R. 1171 which the House passed during the first session.

Title IV contains a provision regarding actions by the Secretary of Transportation to decommission a Coast Guard vessel.

H.R. 4210 has been developed in close consultation with the Senate. I am confident that this bill meets our objectives of providing needed authority for important marine research and management programs and will soon reach the President's desk and be signed into law.

For these reasons, I urge my colleagues to support H.R. 4210.

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Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I rise in strong support of the committee amendment to H.R. 4210, the reauthorization of title II of the Marine Protection, Research, and Sanctuaries Act.

Mr. Speaker, my colleagues who have spoken before me have described well the principal components of the bill itself, which reauthorizes the program of marine environmental research that is conducted by the National Oceanic and Atmospheric Administration [NOAA], and of the amendment that includes the text of an agreement that has been developed by the Committee on Merchant Marine and Fisheries and the Senate Commerce Committee on reauthorizing the National Marine Sanctuary System. I will therefore confine my remarks to those portions of the amendment that will codify a system of liability

for those who cause damage to the natural resources of a national marine sanctuary, and to an additional provision relating to Stellwagen Bank.

Mr. Speaker, section 204 of the committee amendment proposes to add several new sections to the national marine sanctuaries authorizing statute to codify what I believe is a startlingly simple proposition: that those who cause harm to the natural resources of a national marine sanctuary should be responsible for that harm. In short, section 204 will:

Impose liability on those who cause damage to the resources of a sanctuary;

Require the National Oceanic and Atmospheric Administration [NOAA] to evaluate the extent of the damage;

Then require NOAA to recover funds from those who caused the damage and plough them back into restoring the sanctuary itself.

The amendment also authorizes NOAA to proceed directly against those who are responsible through the use of injunctive relief.

Mr. Speaker, I am gratified that the Senate Commerce Committee has voted in favor of these provisions which were drawn from legislation I introduced earlier this Congress, and I am hopeful that they may receive the full support of the Senate as well in the coming days.

Mr. Speaker, the amendment before us today, like the bill that the House passed earlier this year, would require NOAA to prepare detailed reports—called prospectuses—on the possibility of designating certain additional areas as national marine sanctuaries. On the recommendation of Senator KERRY, the Senate Commerce Committee has proposed Stellwagen Bank as one area for which a prospectus would be required by September 30, 1990. We have included that requirement in the amendment before us today, and I believe that it deserves the full support of the House.

Stellwagen Bank is a highly productive fishery area located off Massachusetts between Cape Cod and Cape Ann. It includes approximately 480 square miles in entirely Federal waters with depths ranging from 70 to 120 feet.

The area is a seasonally important feeding site for at least seven species of marine mammals and is of particular importance to the western Atlantic population of humpback whales. The high productivity of the bank that draws the whales also sustains an important commercial and recreational fishery that is among the finest in the region.

Because of the importance of the living resources dependent upon Stellwagen Bank and the growing threats to the area from industrial activities and other shoreside development in the region, I believe a detailed review of the merits of designating the area as a national marine sanctuary deserves our support. First proposed as a sanctuary in 1983, the idea of designating Stellwagen Bank has languished since then, lost in the inaction that has generally characterized the administration's approach to marine issues.

I believe that our action today will begin again the process for examining the idea of the area as a sanctuary for its living resources. Throughout the process of developing a prospectus for Stellwagen Bank, I fully expect NOAA to conduct public hearings in the region to ensure that all who have an interest in the future of Stellwagen Bank have a chance to provide their guidance and recommendations on the potential designation. Knowing well the fundamental importance of local and regional support for the success of any marine sanctuary, I encourage NOAA to make every effort to solicit and heed the views of those who make their living by—and on—the extraordinary resources of Stellwagen Bank.

Finally, overall credit for the legislation is owed to the chairman of the Oceanography Subcommitee for his dedicated efforts to pursue a broad based reauthorization that will bring the Sanctuaries Program back on course and help reverse years of inaction and neglect by the administration. The designations of new sanctuaries that we propose here today should never have been necessary: the character of Monterey Bay, Cordell Bank and the other areas in the bill more than justify their inclusion into the system, and my friend from Washington deserves high praise for recognizing the need to override the intransigence of the NOAA officials who have for too long sought to tear down and destroy the program they were charged with nurturing.

Mr. Speaker, this is a good bill that will renew our commitment to the extraordinary marine areas that rim our coasts and I urge its passage.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first may I just say that the gentleman from North Carolina [Mr. JONES], chairman of the committee, has certainly done a yeoman's job in getting H.R. 4210 to the floor. I commend him for that, and I commend as well our ranking member on our side, the gentleman from Alaska [Mr. YOUNG].

Mr. Speaker, as an original cosponsor of H.R. 4210, and the next bill we will consider H.R. 4211, I am proud of the promise these bills hold for the future of this Nation's coastal oceans. And I thank the chairman of the Subcommittee on Oceanography, Mr. LOWRY, for all of his effort in bringing these bills to the floor.

During hearings earlier this year in the Merchant Marine and Fisheries Committee, we learned a surprising fact and an important lesson. The fact we learned was that medical waste, unlike we had assumed for many years, is not rendered harmless in saltwater. The lesson we learned was the value of ongoing research.

At a field hearing of the Subcommittee on Oceanography held earlier this session in Surf City, NJ, on the subject of coastal pollution, Dr. Robert Abel—president of the New Jersey Marine Sciences Consortium and the first director of National Sea Grant College Program—testified that there remains a basic need to improve our understanding of coastal water movements if we are to solve the Nation's coastal ills. I am, therefore, very pleased to note that studies of estuarine and coastal circulation and the consequences of contamination are carried forward in this bill.

Also contained in the bill are the National Ocean Policy Commission and the Marine Sanctuaries Program. The latter has protected some of the most beautiful ecosystems in this Nation's marine waters—and the former provides an important function in assuring that all such waters are protected in the future. Again, I am very pleased to see them included.

Reauthorization of the Marine Protection, Research, and Sanctuaries Act and of the next bill we will consider, the National Ocean Pollution Planning Act, provide the opportunity to assure the continuance of a well coordinated national research effort to better understand and better protect our ocean resources.

I would like to explain our rationale about increasing the funding levels for the title II research and monitoring program. The administration supports reauthorization of much of the work done under this title, but requested funding which would have killed the National Status and Trends Program. Fortunately, Congress has restored this program by appropriating an additional $6 million for fiscal year 1989. However, this represents level funding and does not allow NOAA to expand its important pollutant assessment programs to the Great Lakes, a serious omission. Therefore, the authorization levels in H.R. 4210 add additional funds for this effort.

I am pleased to concur with this administration in supporting the reauthorization of both these programs, and I urge their passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 4210, reauthorizing the Marine Sanctuaries Program. This legislation extends and revises the Marine Sanctuaries Program, providing important new enforcement authority to deal with pollution of our marine sanctuaries—one of which, the Channel Islands Marine Sanctuary, lies within my district. In addition, the committee has included several provisions of legislation I introduced earlier this year, H.R. 3772, the Santa Barbara Channel Protection Act, requiring the Secretary of Transportation to submit a proposal to the international maritime organization designating the Santa Barbara Channel as an area to be avoided; a report to Congress on the status of recommendations in previous Federal, State, and local studies of shipping hazards in the channel—including a recommendation on whether alternative traffic separation plans should be implemented; and a report on the establishment of a "Navtex" marine safety and navigation radio service to cover the channel.

Mr. Speaker, I want to express my thanks to members of the committee for their ongoing interest in improving safety and navigation conditions in the Santa Barbara Channel.

Mr. LOWRY of Washington. Mr. Speaker, H.R. 4210 would reauthorize title II of the Marine Protection, Research, and Sanctuaries Act [MPRSA] at levels of $13,500,000 and $14,500,000 for fiscal years 1989 and 1990, respectively. In addition, H.R. 4210 would require that the Secretary of Commerce ensure that the research program conducted under subsection (a) of title II be consistent with the comprehensive plan developed under section 4 of the National Ocean Pollution Planning Act of 1978, the reauthorization of which we will be considering later.

The primary purpose of title II of the MPRSA is to provide for short- and long-term research and monitoring on the effects of pollution, overfishing, and other activities on the marine environment including the specific effects of ocean dumping. The types of programs funded under title II include NOAA's Status and Trends Program, which monitors water quality data from various estuaries around the Nation; the Consequences of Contamination Program, which links the chemical data collected in the Status and Trends Program with the actual effects on marine life; the Strategic Assessment Branch, which prepared data atlases and maps of various estuaries; and the Hazardous Materials Response Program, which is NOAA's research and response capability for meeting hazardous material emergencies and conducting long-term resource assessments under the Superfund law.

As Members recently heard during NOAA's fiscal year 1989 budget testimony, the Status and Trends Program would be reduced by approximately $5.7 million in this year's budget. I believe that this authorization legislation is important to put this committee on record that it supports the Status and Trends Program, as well as other ocean pollution research efforts underway at NOAA to better understand the fate and effects of contaminants and other pollutants which we have discharged into our Nation's waterbodies for years.

Mr. Speaker, this bill also includes the text of H.R. 4208, legislation that I introduced on March 21, 1988, with my colleagues, Mr. JONES of North Carolina, Mr. STUDDS, Mr. FASCELL, Mr. ALEXANDER, and Mr. HUGHES. The basic purpose of H.R. 4208 is to amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972 to reauthorize the National Marine Sanctuary Program for 4 years with a modest expansion of funding based on the additional requirements of the legislation.

Nationally significant marine resource areas are of great value for research, education, and for promoting general public awareness of our marine environment. As our ocean waters are continuously threatened by pollution and other damaging incidents, the establishment and maintenance of marine sanctuaries for the protection of nationally significant resources is an essential priority if we are to continue to enjoy the benefits of unique ocean and coastal resources to which we have become accustomed. The amendments to the Marine Protection, Research, and Sanctuaries Act that have been incorporated into this piece of legislation recognize issues that require immediate attention. These include the need for: First, improved timeliness and predictability of the national marine sanctuary site designation process; second, clarification of liability for damages to these valuable marine resources; and third, movement toward a uniform enforcement authority to better protect marine resources.

To begin, I would like to point out that existing law contains no deadline regarding site designation. This creates a tremendous problem as too often NOAA has proposed active candidates for site designation, for example Cordell Banks or Flower Garden Banks National Marine Sanctuary, and never completes the process to finally designate the sanctuary. Section 102 amends title III to require the Secretary to publish a notice of designation with final regulations—or findings detailing reasons why one has not been published—within 30 months of the date which a site is determined to be an "active candidate" from the site evaluation list.

Mr. Speaker, these new provisions would force action that has been delayed in the past. The bill also mandates that decisions not to proceed with designation of a site be explained in writing and referred to the relevant House and Senate committees. This will in turn increase the predictability and accountability of the designation process.

The next section deals with the promotion and coordination of research, special use permits, and cooperative agreements and donations. Section 103 of this act strikes section 308 of the title and adds sections 309, 310, and 311 to deal with the above topics, respectively. Since national marine sanctuaries provide ideal environments for conducting marine research projects, section 309 requests that NOAA give priority to marine research within the marine sanctuaries and consult with Federal and State agencies to actively promote their use of the sanctuaries for research purposes.

Because not all activities can be adequately controlled under existing sanctuary regulations, such as those for research, education and other access requirements, section 310 establishes a special use permitting system to complement those existing regulations. If NOAA determines that a permit is necessary to promote public use and understanding of or to establish access to a sanctuary, it may issue such a permit with a 5-year maximum duration, renewable by the Secretary, under the specific terms established in this section. These terms require that the permittee's activities are compatible with the purposes for which the sanctuary was designated, not resulting in any destruction, loss, or injury to its resources, and that the permittee maintains general liability insurance. The permittee must submit an annual report describing the activities conducted by the end of each year. Should any of these terms be violated, the Secretary is authorized to revoke the permit. Section 310 also establishes a specific method of determining the permit fee and authorizes the Secretary to use these fees for management purposes and permit administration. Under section 311, the Secretary of Commerce is explicitly authorized to enter into cooperative agreements with any nonprofit organizations and to authorize those organizatons to solicit private donations for the support of sanctuary activities. This section also allows the Secretary to accept any donations and to expend those donations for sanctuary purposes.

Section 104 establishes a system for restoring those marine sanctuary resources that are destroyed, injured, or lost. The section states that any person responsible for such destruction, injury, or loss will be held liable to the United States for damages and appropriate response costs. Likewise, any responsible vessels will be held liable in rem. Persons will not be liable if they can establish that the destruction, injury or loss was caused by and act of God, war, or a third party, that the causal activity was authorized by Federal or State law or that the damage is of a de minimus nature. The Secretary is directed to pursue civil actions against those persons who are liable to recover response costs and damages.

Recovered funds will be set aside in a separate account and used to remedy the damaged resources. This provision works in accordance with section 107(f)(1) of the Comprehensive Environmental Response, Liability and Compensation Act [CERCLA]. The setaside may exist at a maximum of $750,000 to finance the relevant response actions. The bill requires that remaining funds be used to restore, replace, or acquire the equivalent of the damaged resources. In the event that this is not possible, the Secretary is authorized to use the funds for managing and improving the affected sanctuary and then managing other sanctuaries in need of funding.

Mr. Speaker, because of the slow pace of the designation process, specifically with respect to Cordell Banks and Flower Gardens, and because of nationally significant characteristics found in other areas, section 105 of this act establishes a specific schedule for the designation process for four sites: Cordell Banks, Flower Gardens, Monterey Bay, and western Washington outer coast. The section requires that a final notice of designation for the Cordell Banks National Marine Sanctuary be issued no later than December 31, 1988. It is my understanding that this is feasible and that the Administration actually intends to publish the notice prior to this deadline.

A notice of designation for the Flower Gardens National Marine Sanctuary is required by March 31, 1989. Although the designation process for this site has been underway for 10 years, I believe that this date is reasonable now that disputes between NOAA and the State Department regarding NOAA's authority to prohibit harmful anchoring of foreign flag vessels in that area have been resolved. Section 105 requires that Monterey Bay's final notice of designation be issued no later than December 31, 1989. Monterey Bay was previously an active candidate for designation, until NOAA remove it from the list for reasons which are somewhat unclear and inadequate. For example, NOAA felt that this was not a necessary sanctuary because two other sanctuaries in California protect similar resources and that the size of the proposed sanctuary

would put a strain on NOAA's existing enforcement capabilities.

California's present sanctuary resources do not include submarine canyons, such as those found in Monterey Bay and are not as accessible to the public as Monterey Bay. In addition, NOAA did not know what the size of the Monterey Bay National Marine Sanctuary would be since the evaluation process was never completed. It turns out, in fact, that the Monterey Bay National Marine Sanctuary would most likely be considerably smaller than either of the two existing California sanctuaries. These facts, coupled with pollution, from various sources, that continues to pose serious health threats which cannot be controlled by existing conservation measures in the area, support my belief that Monterey Bay is certainly appropriate for designation.

The western Washington outer coast was placed on the site evaluation list in August 1983 and, under this act, would be finally designated by June 30, 1990. This site is adjacent to the Olympic National Park and holds a nationally significant collection of flora and fauna in addition to its variety of sea birds and marine mammals. However, the boundaries for this site as described when placed on the site evaluation list are not adequate for the protection of the rocky stacks used by the sea birds and marine mammals which are so integral to the significance of this site. Therefore, Mr. Speaker, I would like to make a strong point of directing NOAA to use initial boundary descriptions only as a general point from which further detailed review should stem. The boundaries should be subject to change upon review and open to development until the final notice of designation is issued.

Section 105 of this act also requires that the Secretary submit a prospectus to the Congress regarding the proposed Northern Puget Sound National Marine Sanctuary by March 31, 1991, and the Stellwagon Banks National Marine Sanctuary by September 30, 1990. These areas contain nationally significant characteristics that should be protected, but is also a source of various human recreational and research activities. Because of the multiple uses of the areas and the act that extensive consultation is necessary regarding the specific areas to be designated, I believe that these deadlines are appropriate for the prospectuses.

Section 106 of this act recognizes four new areas that should be studies for designation: American Shoal, Sombrero Key, Alligator Reef and Santa Monica Bay. This section requires the Secretary to conduct investigations of these areas and to submit, not later than 2 years after the enactment of the act, a report to Congress regarding a decision as to whether any of these areas, or parts thereof, are appropriate for designation as marine sanctuaries or, in the case of the Florida Key areas, for addition to the existing Key Largo or Looe Key National Marine Sanctuaries.

Section 107 makes some amendments regarding enforcement activities as a move toward uniform authority to diminish possible confusion by marine law enforcement agents. These amendments have been modeled after the enforcement provisions of the Magnuson Fishery Conservation and Management Act. Clarifications have been made with respect to civil penalty assessment, property seizure or forfeiture and storage costs. All are consistent with authorities found in the Magnuson Act.

In section 108 of this act, new sections are added to title III regarding the authorization of appropriations and U.S.S. *Monitor* artifacts and materials. In contrast to past plans, appropriation authorizations would be divided into three categories: First, "general administration," which includes any costs relating to NOAA headquarters operations; second, "management of sanctuaries," which includes any costs relating to onsite management and operations; and third, "site review and analysis," which includes any costs relating to the consideration of a site for national marine sanctuary designation.

Provisions regarding U.S. *Monitor* artifacts and materials require the Secretary to submit, within 6 months of the enactment of this act, a plan that identifies suitable artifacts and materials to be displayed as well as suitable display sites in coastal North Carolina.

Section 109 addresses the protection of the Channel Islands National Marine Sanctuary. It requires that the Secretary of Transportation transmit to Congress provisions that enable response to oil pollution incidents and other incidents which result in damage to the environment in the Channel Islands Sanctuary. The Secretary must also review all Federal, State, and local studies conducted on the hazards of shipping operations and submit recommendations on those studies.

Finally, Mr. Speaker, title III of this bill contains a provision to establish the National Oceans Policy Commission, and title IV contains a provision requiring the transfer of the Coast Guard cutter *Ingham*.

Mr. Speaker, I believe that this is a most worthwhile piece of legislation. Positive action must be taken to protect our important oceans and coastal resources and this bill is a major step in that direction. I would urge my colleagues to support it. Finally, Mr. Speaker, I would like to thank my colleagues on the Merchant Marine and Fisheries Committee, who have helped to improve this legislation, especially Mr. JONES and Mr. STUDDS, as well as Mr. YOUNG of Alaska, and Mr. DAVIS of Michigan. In addition, Mr. Speaker, I would like to compliment my colleagues from California, Mr. PANETTA and Mr. LEVINE, as well as Mr. FASCELL for their important work and leadership on this legislation.

Mr. DAVIS of Michigan. Mr. Speaker, H.R. 4210 contains many titles, all of which have merit. I would like to elaborate on certain provisions contained in this bill, which will improve the overall health of our marine and Great Lakes environment.

The first section of H.R. 4210 reauthorizes title II of the Marine, Protection, Research, and Sanctuaries Act. Although the administration requested only $4.8 million for this program for fiscal year 1989, the Congress has provided funds for the continuation of the important monitoring and research in our oceans and Great Lakes authorized by title II, specifically the Status and Trends Program. However, even these funding levels will not allow NOAA to expand its important pollutant assessment programs to the Great Lakes, a serious omission.

The Great Lakes region needs this vital information to assist in the cleanup of contaminated "hot spots", including the St. Mary's River, which has suffered pollution leaching from slag piles and other as yet unidentified sources. Federal officials in both the United States and Canada have explained that remedial action plans cannot be developed any faster because they don't have data at hand showing the types of pollutants entering the lakes, the amounts of these pollutants, or where the pollutants are coming from. NOAA has the capacity under title II, and indeed has used it for the east, west, and gulf coasts, to compile this information in a computerized inventory and to make it available to government entities and other users. NOAA also publishes this material in Data Atlases, which are also available to the public.

The small increase in authorization levels in the title II program therefore represents our hope that funds will be appropriated next year for NOAA to add the Great Lakes to its existing pollutant monitoring/assessment system. Earlier this Congress I introduced a bill, H.R. 3715, which would have created a freestanding program directing NOAA to compile an inventory of pollutants entering into the Lakes. Although the Public Works and Transportation Committee was unable to report out the bill this Congress, I urge NOAA, in cooperation with the Environmental Protection Agency's Great Lakes National Program Office, to pursue the program outlined in that bill under title II should funds allow.

The second title of this bill reauthorizes the National Marine Sanctuaries Program, also administered by NOAA. This section further specifies NOAA's enforcement powers so that the special maritime areas designated as national marine sanctuaries are better protected. I also note the extra safeguards in this title afforded the Channel Islands National Marine Sanctuary offshore Santa Barbara, CA. Congressman ROBERT LAGOMARSINO has fought to shield this fragile site from devastating oil spills, with the assistance of the U.S. Coast Guard. Section 209 of the bill guarantees that this protection will continue.

Finally, title III of the bill establishes a National Oceans Policy Commission. The House has already approved this measure last year, and we hope that the Senate has reexamined its position and is willing to support this approach to ensure that our oceans and the Great Lakes are given new hope in the coming years.

I urge my colleagues to support this bill, and thank my associates on the Science, Space, and Technology Committee for agreeing to its consideration in the House today.

Miss SCHNEIDER. Mr. Speaker, I rise today in support of H.R. 4210, the reauthorization of title II of the Marine Protection, Research and Sanctuaries Act [MPRSA]. This reauthorization is very important, especially in light of the fact that this body has just approved an amendment to MPRSA which bans ocean dumping.

I have been privileged to serve on the two committees which have jurisdiction over this reauthorization, the Merchant Marine and Fisheries Committee and the Science, Space, and Technology Committee. Through my position on these two key committees I recognize

the importance of researching and monitoring the effects of ocean dumping even though this Congress is mandating an end to this harmful practice. I have worked to assure that both of these committees have given this reauthorization the proper attention and support.

I am glad to see the inclusion of a provision in this bill which creates a National Oceans Policy Commission [NOPC], which I recently introduced as an amendment to another bill along with Chairman WALTER JONES. I commend the action of WALTER JONES and MIKE LOWRY in incorporating NOPC into this bill.

The formation of such a commission is not a new idea. Over 20 years ago Congress established the Stratton Commission. The recommendations of that commission shaped the form and direction of our Nation's marine policy for the decade that followed. The 1970's saw many of the commission's forward looking recommendations implemented, such as the creation of NOAA; passage of the Coastal Zone Management Act; the Clean Water Act; the Ocean Dumping Act; and the Magnuson Fishery Conservation and Management Act.

We do not have a comprehensive approach to manage and utilize our Nation's most important natural resource—our oceans. The United States needs a coordinated, comprehensive oceans policy developed from our past efforts, current trends, and our future needs and expectations.

Now is the perfect time to reestablish a national oceans policy. The 17-member nonpartisan commission which is proposed in this bill will be chosen by a new President, and will begin its mission with a new administration. This commission will be setting our priorities for the challenges that this Nation will be facing in the 1990's and into the next century.

I strongly urge all of my colleagues to support this bill which will reauthorize a very important program and establish a mechanism for managing our marine resources into the 21st century.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illionis). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 4210, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Purusant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4210, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

NATIONAL OCEAN POLLUTION PLANNING ACT OF 1978 AUTHORIZATION, FISCAL YEARS 1989 AND 1990

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4211) to reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Ocean Polution Planning Act of 1978 (33 U.S.C. 1701-1709) is amended as follows:

(1) Paragraph (1) of section 3 (33 U.S.C. 1702(1)) is amended to read as follows:

"(1) The term "Administration" means the National Oceanic and Atmospheric Administration of the United States Department of Commerce.".

(2) Paragraph (2) of section 3 (33 U.S.C. 1702(2)) is repealed.

(3) Paragraphs (3), (4), (5), (6), (7), and (8) of section 3 (33 U.S.C. 1702(3), (4), (5), (6), (7), and (8)) are redesignated as paragraphs (2), (3), (4), (5), (6), and (7), respectively.

(4) Section 3 is amended by inserting after paragraph (7) (as redesignated) the following:

"(8) The term "Under Secretary" means the Under Secretary for Oceans and Atmosphere, United States Department of Commerce.".

(5) The term "Administrator" is struck each place it appears and the term "Under Secretary" is inserted in lieu thereof.

(6) Subparagraph (B) of section 3A(a)(2) (33 U.S.C. 1702a(a)(2)(B)) is amended to read as follows:

"(B) be headed by a director who shall—

"(i) be appointed by the Under Secretary, and

"(ii) be the official responsible for the administration of the program;".

(7) Subparagraph (B) of section 3A(b)(2) (33 U.S.C. 1702a(b)(2)(B)) is amended to read as follows:

"(B) review all department and agency budget requests transmitted to it under section 4 of this Act and submit a report simultaneously to the Office of Management and Budget and to the Congress concerning those budget requests;". (8) Section 10 (33. U.S.C. 1709) is amended—

(A) by striking "and" immediately following "1986"; and

(B) by striking "1987." and inserting in lieu thereof "1987, not to exceed $3,750,000 for fiscal year 1989, and not to exceed $4,000,000 for fiscal year 1990.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. I rise today in support of H.R. 4211, a bill to reauthorize the National Ocean Pollution Planning Act of 1978 [NOPPA].

This bill will reauthorize NOPPA for fiscal years 1989 and 1990, at a level of $3.75 million for fiscal year 1989 and $4 million for fiscal year 1990. The bill also makes a few needed adjustments in the basic NOPPA program.

NOPPA is an important program administered by the National Oceanic and Atmospheric Administration [NOAA]. It requires NOAA to coordinate all Federal programs for ocean pollution research and monitoring, and to develop, every 3 years, a 5-year plan for ocean pollution research. The next 5-year plan is due to be released this year.

At this time of heightened concern for our Nation's coasts due to pollution, I urge my colleagues to support this program. It has, as its goal, the identification of key pollution issues and makes recommendations on how Federal agencies can coordinate their budgets to help solve these problems.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I mentioned in our deliberations on the previous bill, I believe that the passage of the National Ocean Pollution Planning Act serves an important function if there is any hope of improving the outlook for our coastal oceans.

We learned from years of suffering through continued ocean dumping that little is accomplished in the absence of planning. If you do not plan to stop polluting the ocean, you simply will not stop polluting the ocean. The years of difficulty in moving toward successful negotiation of the ocean dumping ban that this House passed only moments ago has also taught us the value of cooperation and coordination.

H.R. 4211 assures that such planning and cooperation will be carried throughout the Federal Government's diverse efforts to address our coastal pollution crisis, and I therefore urge its passage.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 4211, which reauthorizes the National Ocean Pollution Planning Act [NOPPA]. This small program has a big impact on our oceans, as it coordinates all our Federal ocean pollution activities and ensures that we have little overlap or other wasteful

expenditures. This is exactly the right approach in this era of budget limitations but terrible marine pollution troubles.

I would also like to explain a provision in the bill which requires the interagency National Ocean Pollution Planning Board to submit its budget analysis of Federal agency marine pollution programs simultaneously to Congress and to the Office of Management and Budget [OMB]. The budget analysis was added to the duties of the Board in 1986, and the change made in the bill before us today confirms Congress' original expectation that the budget analysis would be available in a timely fashion to the authorizing and appropriating committees in both Houses to aid in the development of budgets for the following fiscal year. At present, the Board has interpreted the law to allow OMB, which sits on the Board, to first review, and consequently conform, the analysis with the President's budget. Not only does this delay the process, but the results serve no more than to highlight the ocean pollution programs already in the President's budget.

The administration has requested that we delete budget review authority from the Board, indicating an "inconsistency with the principal [SIC] of separation of powers for the Congress to direct an advisory board composed of executive branch employees to report to the Congress". I beg to differ with the administration's reading of the law.

While the President has wielded a great deal of authority over executive agency budgetary matters, the President has done so with the blessing of Congress. In fact, prior to the enactment of the Budget and Accounting Act of 1921, each executive branch agency submitted its annual budget request directly to Congress. Finding this process unwieldy and inefficient, Congress created the Bureau of the Budget to review the morass of agency budget submissions. After the Bureau was reformulated into OMB, it gained prominence as a tool implemented certain administration policies in the 1970's. In reaction, Congress created the Congressional Budget Office [CBO] and required Senate confirmation of high-level OMB officials. In addition, since the early 1970's, Congress has either eliminated the requirement that OMB clear agency budget requests or mandated that the requests be concurrently submitted to CBO. See e.g., 39 U.S.C. 2009; 19 U.S.C. 2232; 5 U.S.C. 522a App., at 318; 7 U.S.C. 4; 15 U.S.C. 2076; 49 U.S.C. 1903; 5 U.S.C. 1205; 31 U.S.C. 11; 42 U.S.C. 7172; 45 U.S.C. 601; and 45 U.S.C. 712(g).

Therefore, if Congress may request direct submission of agency budget requests, it follows, that it may request an "unpasteurized" budget analysis from an advisory panel in the Executive Branch.

I ask that Members support this bill because not only is it perfectly legal, but the contribution of NOPPA to our ocean pollution control efforts is invaluable.

Mr. LOWRY of Washington. Mr. Speaker, I rise in support of H.R. 4211, the primary purpose of which is to reauthorize the National Ocean Pollution Planning Act [NOPPA] at levels of $3.75 million and $4 million, respectively for fiscal years 1989 and 1990.

The National Ocean Pollution and Planning Act directed NOAA in consultation with other Federal agencies conducting ocean pollution research, to prepare a 5-year plan for ocean pollution research and monitoring, and update this plan every 3 years. The law requires that the plan include an inventory of existing Federal programs, and analysis to which the extent of which existing programs assist in meeting national needs and problems with respect to ocean and coastal pollution, and recommendations for changes in the overall Federal effort where necessary, and a report on budget coordination efforts. In fact, the documents which have been prepared by NOAA under this Act have been quite useful in terms of laying out what various Federal agencies have been doing and are currently doing in the area of ocean pollution research. And, although some coordination has been achieved as part of this consultation process, it is clear that the degree of coordination between the various Federal agencies could be improved upon.

In addition to reauthorizing NOPPA at the levels described above, H.R. 4211 would also make several technical changes to the legislation which I will not go into at this time. I would like to point out that I believe that this legislation is very noncontroversial, but it is important to reauthorize the program at this time.

Mr. SAXTON. Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules, and pass the bill, H.R. 4211, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4211, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE SOVIET UNION

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and disagree to the Senate amendment to the bill (H.R. 4919) to improve the Governing International Fishery Agreement between the United States and the Union of Soviet Socialist Republics, and for other purposes.

The Clerk read as follows:

Senate amendment: Page 6, after line 2, insert:

SECTION 8. AUTHORIZATION FOR CERTIFICATES OF DOCUMENTATION.

(a) Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessels:

(1) Aleutian Trawler, United States official number 236979;

The SPEAKER pro tempore. Is a second demanded?

Mr. SAXTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last week the House approved H.R. 4919, as amended. It gives congressional approval to a governing international fisheries agreement signed between the United States and the Soviet Union.

This bill needs to be presented to the President for signature in the next day or so. However, last Friday the Senate approved the bill with a further amendment. We are not prepared to deal with the substance of this amendment today.

Accordingly this motion would send the bill back to the Senate in exactly the same form as it was approved by the House last week.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4919 and urge its adoption.

H.R. 4919 is a bill ratifying the Governing International Fishery Agreement between the United States and the Soviet Union. In addition, the bill contains provisions that were adopted by the House Merchant Marine and Fisheries Committee regulating foreign fishing in our 200-mile Exclusive Economic Zone, authorizing establishment of a Woods Hole biomedical research facility, reauthorizing a mapping program for the Great Lakes, and transferring the U.S. Coast Guard cutter *Glacier* to the State of Oregon.

This bill was passed by the House under suspension of the rules last Monday. It was returned to the House by the Senate with an amendment at the end of last week. Our committee does not believe it can accept the Senate amendment in the context of this bill, and so we are returning it to

the Senate with their language deleted.

Mr. Speaker, the House has already passed this measure, no changes have been made and I believe it should be adopted again without controversy.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 4919, legislation which provides congressional approval for the new Governing International Fishery Agreement [GIFA] between the United States and the Soviet Union. It is encouraging to see continued improvement between our two nations concerning fishery issues. This agreement establishes a framework to improve cooperation and management of fishery stocks of mutual concern.

Earlier this year Secretary of State Shultz and Foreign Minister Shevardnadze signed a new comprehensive fisheries agreement. This bill puts that agreement into motion and I congratulate those who have worked hard to accomplish this task.

Section 3 of H.R. 4919 reauthorizes the Great Lakes mapping plan through fiscal year 1989. This program was created last year, as part of Public Law 100-220, the United States-Japan Fishery Agreement Approval Act of 1987. The plan was to identify high-risk erosion and flooding areas, and estimate the costs of remapping the shoreline and nearshore waters. These updated maps are critical, as many of the Great Lakes navigation charts are over 50 years old.

The new maps would be designed to aid Federal, State, and local agencies, as well as private citizens and businesses, in preventing flooding and erosion, for public safety, and for commercial navigation. This measure has been widely supported by environmental groups, commercial shipping companies, and the Great Lakes States, and has received approval from many Federal agencies.

Because Public Law 100-220 was signed into law too late last year to benefit from the appropriations process, this program needs to be reauthorized through next year. Both the National Oceanic and Atmospheric Administration and the U.S. Geological Survey have begun preliminary work on this plan, and need our support through the next fiscal year. I have been working with the House and Senate conferees on the Department of Commerce Appropriations bill to ensure that funds are available, and I am confident that a small amount of money will be earmarked for this program that has the potential of saving millions of dollars and perhaps some lives.

Mr. SAXTON. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and disagree to the Senate amendment to the bill, H.R. 4919.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONGRESSIONAL AWARD ACT AMENDMENTS OF 1988

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5315) to amend the Congressional Award Act to extend the Congressional Award Program, as amended.

The Clerk read as follows:

H.R. 5315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Award Act Amendments of 1988".

SEC. 2. AMENDMENTS TO THE CONGRESSIONAL AWARD ACT.

(a) ANNUAL REPORTS.—Section 3(e) of the Congressional Award Act (2 U.S.C. 802(e)) is amended—

(1) by redesignating paragraph (6) as paragraph (8); and

(2) by inserting after paragraph (5) the following new paragraphs:

"(6) A detailed description of the goals and objectives of the Board and the role of Congressional participation in fulfilling those goals and objectives.

"(7) Plans for activities to be conducted during the remainder of the duration of the program, consistent with the functions and requirements established under this Act.".

(b) MEMBERSHIP OF THE BOARD.—Section 4 of the Congressional Award Act (2 U.S.C. 803) is amended—

(1) in subsection (a)(1)—

(A) by striking "thirty-three" and inserting "25";

(B) by striking "Eight" each place it appears and inserting "Six";

(C) by inserting ", 1 of whom shall be a member of the Congressional Award Association" before the period in each of Subparagraphs (A) and (D); and

(D) by inserting ", 1 of whom shall be a representative of a local Congressional award Council" before the period in each of subparagrpahs (B) and (C); and

(2) by amending subsection (d) to read as follows: "(d)(1) A meeting of the Board may be convened only if—

"(A) notice of the meeting was provided to each member in accordance with the bylaws; and

"(B) not less than 11 members are present for the meeting at the time given in the notice.

"(2) A majority of the members present when a meeting is convened shall constitute a quorum for the remainder of the meeting.".

(C) POWERS, FUNCTIONS, AND LIMITATIONS.—(1) The heading of section 7 of the Congressional Award Act (2 U.S.C. 806) is amended to read as follows:

"POWERS, FUNCTIONS, AND LIMITATIONS".

(2) Section 7 of the Congressional Award Act (2 U.S.C. 806) is amended—

(A) by redesignating subsections (b) through (g) as subsections (c) through (h), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b)(1) The Board shall establish such functions and procedures as may be necessary to carry out the provisions of this Act.

"(2) The functions established by the Board under paragraph (1) shall include—

"(A) communication with local Congressional Award Councils concerning the Congressional Award Program;

"(B) provision, upon the request of any local Congressional Award Council, of such technical assistance as may be necessary to assist such council with its responsibilities, including the provision of medals, the preparation and provision of applications, guidance on disposition of applications, arrangements with respect to local award ceremonies, and other responsibilities of such council;

"(C) conducting of outreach activities to establish new State and local Congressional Award Councils, particularly in inner-city areas and rural areas;

"(D) fundraising;

"(E) conducting of an annual Gold Medal Awards ceremony in the District of Columbia;

"(F) consideration of implementation of the provisions of this Act relating to scholarships; and

"(G) carrying out of duties relating to management of the national office of the Congressional Award Program, including supervision of office personnel and of the office budget.".

(d) REPORTS AND TERMINATION OF BOARD.—Section 9 of the Congressional Award is amended to read as follows:

"REPORTING AND TERMINATION PROVISIONS

"SEC. 9. (a) Except as provided in subsection (b), the Board shall terminate on November 15, 1989.

"(b)(1) If the Board fails to submit any report required by subsection (c), the Board shall terminate within 30 days of the failure.

"(2) Unless the Board is in compliance with subsection (b) of section 7 not later than September 30, 1989, the Board shall terminate on October 30, 1989.

"(3) If the Board makes the certification required by subsection (d), the Board shall terminate on September 30, 1990.

"(c)(1) The Board shall submit to the appropriate committees of the Congress 4 reports that each include at least—

"(A) a description of all fundraising activities conducted by the Board during—

"(i) in the case of the first report, the period beginning on the date of the enactment of the Congressional Award Act Amendments of 1988 and ending on the date of the report; and

"(ii) in the case of the second, third, and final reports, the period beginning on the date the previous report was submitted under this subsection and ending on the date of the report;

"(B) a description of the fiscal position of the Board as of the date of the report, including—

"(i) available cash;

"(ii) outstanding debts; and

"(iii) prospective operating expenses;

"(C) proposed fundraising activities to be carried out during the period beginning on the date of the report and ending on the date of the succeeding report;

"(D) the number and location of Congressional Award Councils established since the previous report in States or congressional districts where no such councils previously existed; and

"(E) any evidence of contacts between the Board or the Congressional Award Foundation and any congressional office, including copies of any correspondence between the Board or the Congressional Award Foundation and any congressional office.

"(2) The reports required by paragraph (1) shall be submitted as follows:

"(A) The first report shall be submitted not later than January 1, 1989.

"(B) The second report shall be submitted not later than April 1, 1989.

"(C) The third report shall be submitted not later than July 1, 1989.

"(D) The final report shall be submitted not later than September 30, 1989.

"(3) The date of the submission of a report under this subsection shall be considered to be the date the report is registered to be mailed by certified mail, return receipt requested.

"(d) Not later than September 30, 1989, the Director shall certify to the congressional leadership that the Board complied with the requirements of this section in a timely manner.

"(e) Within 30 days of the submission of each report required under subsection (c) and the submission of the certification required under subsection (d), the Comptroller General of the United States shall submit to the appropriate committees of the Congress a report verifying the information submitted in the report or certification, as appropriate.

"(f) Prior to termination of the Board under this section, the Board shall take such actions as may be required to provide for the dissolution of any corporation established by the Board under section 7(h). The board shall set forth, in its bylaws, the procedures for dissolution to be followed by the Board.".

(e) CONFORMING AMENDMENT.—Section 8(a) is amended by striking "section 7(g)" and inserting "section 7(h)".

SEC. 3. TRANSITION PROVISIONS.

Not later than 120 days after the date of the enactment of this Act, the congressional leadership shall appoint members to fill vacancies on the Congressional Award Board in accordance with section 4(a) of the Congressional Award Act (as amended by section 2(b)). In filling such vacancies, the congressional leadership shall first appoint members from the Congressional Award Association and local Congressional Award Councils in accordance with section 4(a) of the Congressional Award Act (as amended by section 2(b)).

SEC. 4. REPORT.

(a) IN GENERAL.—The Congressional Award Board shall submit to the appropriate committees and subcommittees of the Congress a report that describes in detail—

(1) the goals and objectives of the Board;

(2) the role of Congressional participation in fulfilling such goals and objectives; and

(3) plans for activities to be conducted during the remainder of the duration of the Congressional Award Program established under section 3 of the Congressional Award Act, consistent with the duties and requirements established under such Act.

(b) TIME FOR REPORT.—The report required by subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. BARTLETT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. OWENS] will be recognized for 20 minutes and the gentleman from Texas [Mr. BARTLETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

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Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for nearly a decade the Congressional Awards Program has served to inspire the youth of our country toward the achievement of personal development and community service goals. While the administration of the program's first 10 years at the national level has at times been a troubled one, this should not obscure the tremendous volunteer efforts of thousands of young people who have been recognized by the award of bronze, silver, and gold medals.

It is appropriate to pause at this moment to give credit to the late Jim Howard, the original sponsor of the Congressional Awards Act. We know that this program was very close to his heart and that he nurtured it from the beginning. He would be pleased to know that the program will continue to serve and honor the young people of this country.

I also want to acknowledge at this time the work of the ranking Republican on the Subcommittee on Select Education, Mr. STEVE BARTLETT in helping to shape the bill that we are considering today, as well as the contribution of my other subcommittee colleagues.

It was Congressman Howard who at the Subcommittee on Select Education hearing which considered the original legislation set Congress the challenge of providing leadership for young people. Congressional award offered young adults, "a chance to participate in a program in which their success will be determined by their own initiative and industry and not in competition with others. We are confronted all too often by the spectre of lost youths in our society. More and more students are turning to the escapism and anonymity of drugs and alcohol."

Congressman Howard's words seem even truer today. There is no shortage of newspaper articles and statistics that we can use to paint a desperate picture of our young people. Whether we look at the approximately 1.2 million runaway children in the Nation, the nearly 300-percent increase in suicide rates among the 15- to 24-year-old population between 1950 and 1985, or the epidemic rise in youthful drug uses, future historians may well gain the impression that this was not the best era to be young in America. The Congressional Award Program will not, by itself, rapidly change that negative perception; bad headlines always have a tendency to edge out good news. But we hope that in the recognition at the local and national level of high standards of achievement this program has the potential to contribute to a more balanced picture.

The majority of our young people are anxious for an opportunity to serve the community in positive ways: Individuals like Richard Negron, a gold medal award winner, who testified before the Subcommittee on Select Education hearings this June. Mr. Negron grew up in a tough neighborhood in Chicago, rife with street gangs and high dropout rates. And now, in part due to the leadership skills he developed through the Congressional Award Program, he coordinates a 600-parent volunteer organization. Hundreds of other young people have volunteered to work in hospitals, to participate as big brothers and sisters, and in a host to other ways are helping to build better communities.

The reauthorization that we are considering today is an effort to ensure that the national leadership of the program fully complements the original goals that Congressman Howard set forth. These goals can only be fully achieved in a more active partnership with Congress than as previously been the case. For that partnership to work however, there must be increased communication. Further expansion of the program will be achieved as a result of individual Congressmen, Senators, and contributors, viewing the Congressional Award Board as a soundly managed organization—one that is equipped to meet the needs of the local district and statewide councils.

The Subcommittee on Select Education hearings revealed the need to ensure much closer oversight of the program's administration—it is for this reason that the National Office is required to submit quarterly reports. These reports will provide the Con-

gress with a detailed and up-to-date picture of the Financial Health of the National Office as well as the Board's progress in developing new councils. We expect Board meetings to be held on a regular basis so that all those with a stake in the futue of the program, including past award winners. As well as the local councils, can be involved in policy decisions.

If there is compliance with the factual reporting requirements of the legislation the program is extended for another year. The requirements for gaining a second year reauthorization are intended to be capable of objective determination and will not involve the exercise of discretion of the execution of law. If the requirements are not met the subcommittee recognizes the need for subsequent legislative action.

This legislation is meant to help the program's national leadership turn a corner. Our Subcommittee on Select Education hearings revealed that the local and statewide councils are in fairly healthy shape, but that the National Office can and should do a much better job of managing its affairs so that program growth is possible. We hope that the new board structure will allow a new sense of purpose to emerge based on a consenses between the national, local, and alumni associations. We anticipate that Congress' more active role in the programs' development will be specified in the first annual report that will be submitted in 180 days after this legislation's enactment.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5315 as amended which will extend the Congressional Award Program for 1 year until November 15, 1989, subject to certain requirements. If these requirements are met, the Congressional Award Program will be extended for an additional year until September 30, 1990.

The Congressional Award Program was created in 1979 by the late Congressman Jim Howard and Senator WALLOP. It is the only award given by Congress in recognition of youth leadership in the areas of public service, personal development, and physical fitness. The award has given new direction and meaning to the lives of the young Americans who have received it. It is a program that has had the support of many Members of Congress and local community leaders.

The program is administered by the Congressional Award Board which has the authority to use the congressional seal, but the program's activities are not directed by Congress. While the program has achieved substantial success at the local level, the National Board which administers the program nationwide has not. The Board is composed of 22 well-intentioned and hard working members who are committed to the program but unfortunately they have not been able to achieve an acceptable level of success nationally. Since 1979 only 48 Local Congressional Award Councils have been established, and in a survey conducted by the Subcommittee on Select Education only 28 percent of congressional officers who responded participated in the program and 71 percent had never heard of the Congressional Award Program.

When the program was established the Congress intended that it be funded and operated through private sources. However, while local and State councils have been extremely successful in raising funds to operate the program at the local level, the National Board has not. In 1987, the Board had to request Federal funds because their fundraising efforts had not yielded enough money to run the program. Congress appropriated $189,000 in unauthorized dollars to the Congressional Award Board in order for the administration of the program to continue.

Due to this financial crisis, the GAO examined the financial position of the Congressional Award Program and testified before the Subcommittee on Select Education on June 28, 1988. The GAO found "the foundation has suffered losses from operations in 3 of the past 4 years. Its revenue from contributions decreased from $907,225 in 1984 to $204,379 in 1987. As of December 31, 1987, the foundation had a net deficit of $322,995. The foundation has not raised any funds during the first 4 months of 1988. The foundation is operating solely on an appropriation of $189,000. These facts raise substantial doubt concerning the entity's ability to continue as a going concern." Since that testimony, $300,000 of the outstanding debt has been forgiven and the Board is attempting to retire the remaining $22,995. However, due to the financial instability of the National Board the Subcommittee on Select Education believed that the Board must meet certain mandates in order for the program to continue.

In trying to continue this program for the benefit of our Nation's young people, many alternatives were discussed including the possibility of an outside organization administering the program on the national level. However, Representatives of the Board, Local Congressional Award Councils, and the Congressional Award Alumni Association opposed this approach. Thus, the subcommittee agreed to allow the Congressional Award Board continue to administer this program with no Federal funds and under certain conditions. Those conditions are included in this legislation. They are:

First. Submission of quarterly reports to the committees of jurisdiction during 1989 which describe in detail all fundraising activities conducted by the Board; a description of the fiscal position of the Board as of the date of each report including available cash, outstanding debts, and prospective operating expenses; the number and location of Congressional Award Councils established since the previous report in States or congressional districts where no such councils previously existed; and any evidence of contact between the Board or the Congressional Award Association with congressional offices.

Second, Certification by the Executive Director of the Board no later than September 30, 1989, to the congressional leadership that the Board is meeting its operating expenses, has no outstanding debts, and has complied with the requirements included in the quarterly reports. The GAO will verify that the information in the quarterly reports and the certification is accurate. If the reports are submitted by the dates required and the certification is given, the authorization for the program will continue for another year, and may only be revoked or changed by subsequent legislative action. If the Board fails to issue a quarterly report by the date specified or makes no certification to the leadership that they have met these requirements, the Board will cease to exist 30 days after the date upon which the report or certification was to have been submitted.

Third. The Board must meet certain standards to fulfill its mandate during 1989 and beyond. Those standards include communication with and provision of technical assistance to the local councils when they request such assistance; outreach programs to establish new councils particularly in innercity and rural areas; fundraising which should be developed within the organization; conducting an annual gold medal award ceremony in Washington, DC; consideration of implementation of the scholarship program already established by the existing statute; and the management of the National Office including Supervision of Office Personnel and of the Office Budget.

Fourth. Within 6 months the Board must submit a plan to Congress which states their goals and objectives and plans to meet them, its view of the role of congressional participation in meeting these goals and objectives and its plans for meeting the above standards. This plan must show that the Congressional Award Program will have a measurable impact on our Nation's youth.

One of the recurring issues raised during the subcommittee's June 28 hearing was the lack of participation by representatives from Local Congressional Award Councils and the Congressional Award Alumni in deci-

sions made by the Board at the national level. I believe a consensus of purpose of the program has been lacking between the Local Congressional Award Councils and the National Board. H.R. 5315 will require the House and Senate leadership to appoint two representatives from Local Congressional Award Councils and two representatives from the Congressional Award Alumni Association to be members of the Board within 120 days after enactment of this legislation. This will ensure that the Local Congressional Award Councils and Alumni of the program who understand it the best contribute their knowledge about the program to the National Board so that this program can grow and reach young Americans all over this country wishing to succeed in public service. In addition, the size of the Board will be reduced from 33 to 24 members and H.R. 5315 changes the statutory requirement for a quorum so that the Board can convene meetings and conduct business. It is our intent that the Board hold periodic meetings notifying the Congress of when such meetings take place.

These are no unreasonable requirements for the Congress to expect from the Board. These amendments to the Congressional Award Act will strengthen the Board and allow the program to expand and include as many young people in as many congressional districts as possible. All of us want to recognize our young people for achievements in public service and volunteerism and this program can do that through our guidance and direction.

I urge my colleagues to support H.R. 5315 which will allow the Congressional Award Board and National Office to meet the objectives of this program nationwide.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. LEWIS]. I might say of the gentleman from Florida that he has had a very successful congressional award program in his district, one which has changed the lives of young people throughout his congressional district.

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentleman from Texas for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 5315, the Congressional Award Act amendments. I would also like to thank the gentleman from New York [Mr. OWENS] and the gentleman from Texas [Mr. BARTLETT] for bringing this legislation to the floor.

More than 3 years ago, a Congressional Awards Council was initiated in my district, and since that time, I have had the pleasure of presenting nearly 200 awards to some of the best and brightest young people in the country. Just last month two young men from Florida's 12th District were awarded Gold Congressional Medals, and I was honored to present the medals to them.

Too often we focus on the problems in this country, and particularly in our young people. I think we all know that there are a tremendous amount of decent, intelligent, and capable young men and women in this Nation, and the Congressional Awards Program is one of the ways that we can recognize them. I think it is time for us to recognize the youth of our country, and thereby encourage other young people by letting them know that we care.

Mr. Speaker, I certainly hope that we can continue this highly beneficial program and continue to encourage the youth of this Nation to develop their talent to its full potential. I encourage my colleagues to vote for H.R. 5315, and help us to continue this worthwhile program.

Let us make every effort to show the positive side of our youth.

Mr. JEFFORDS. Mr. Speaker, I rise in support of the Congressional Award Act amendments of 1988. We originated this program in 1979. Its purpose was, and is, to recognize young men and women, in their teens and early twenties, who achieve exemplary levels of personal growth through scholarship, physical achievement, and community service.

With the exception of 1 year, this progam has never received Federal funding. Congressional Award Program sites are currently operating in over 40 congressional districts, and some are operating at the State level. The success of these awards progam sites is the result of a commitment by Members of Congress and State and community leaders to continue the program as a source of recognition for the efforts of special young men and women throughout the country. I am pleased to indicate that we have had such a program in the State of Vermont.

Although State and district-level Congressional Awards Program sites have received enthusiastic support within the States in which they have been established, such support has not always been forthcoming for the National Board of the Congressional Awards Program. Over several years, the effectiveness of the National Board, in fact the need for such a board, has been challenged. The reauthorization amendments we consider today would, if enacted, strengthen the Congressional Awards Program by giving the National Board a clear focus and mandate. If the Board responds aggressively and responsibly to its mandate, it would assist in creating many more Congressional Awards Program sites and establish a solid basis for its continuation as the national technical assistance arm of the Congressional Awards Program.

I hope that current Board members accept the opportunity and challenge imbedded in these amendments. All of us involved in drafting these amendments want the Congressional Awards Program to continue and to grow. I believe that the Board also wants the program to continue and to grow. Working together I am sure we can ensure that it does continue and does grow, so that every State and every congressional district has a functioning program with many alumni before the year 2,000.

In closing, I wish to commend my colleagues, Mr. HAWKINS, Mr. OWENS, and Mr. BARTLETT for their work on these amendments. The reauthorization of the Congressional Awards Program does not include an authorization for Federal funding. The private sector has supported this program for most of its 9-year history, and we think it is appropriate for this tradition to continue.

I urge my collegues to join us in supporting these amendments. By doing so we will continue a recognition program that has made a positive difference in the lives of many of young Americans.

Mr. BARTLETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. GRAY OF ILLINOIS). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 5315, as amended.

The question was taken.

Mr. BARTLETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1988

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5318) to amend the Egg Research and Consumer Information Act to limit the total costs that may be incurred by the Egg Board in collecting producer assessments and having an administrative staff, to eliminate egg producer refunds, and to delay the conducting of any referendum by egg producers on the elimination of such refunds, as amended.

The Clerk read as follows:

H.R. 5318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Egg Research and Consumer Information Act Amendments of 1988".

SEC. 2. LIMITING CERTAIN COSTS INCURRED BY THE EGG BOARD.

Section 8 of the Egg Research and Consumer Information Act (7 U.S.C. 2707) is amended by adding at the end thereof the following:

"(j) Providing that the total costs incurred by the Egg Board for a fiscal year in collecting producer assessments and having an administrative staff shall not exceed an amount of the projected total assessments to be collected by the Egg Board for such

fisal year that the Secretary determines to be reasonable.".

SEC. 3. EGG PRODUCER REFUND REFERENDUM.

Section 13 of the Egg Research and Consumer Information Act (7 U.S.C. 2712) is amended by—

(1) inserting "(a)" after "Sec. 13.";

(2) inserting "except as provided in subsection (b)" after "Notwithstanding any other provisions of this Act"; and

(3) adding at the end thereof the following:

"(b)(1) With regard to each order issued under this Act that provides for a producer refund, the Secretary shall amend such order to eliminate such refund.

"(2) Notwithstanding sections 9 and 11 of this Act, an amendment made by the Secretary pursuant to paragraph (1)—

"(A) shall take effect on the date that the Secretary issues the amendment; and

"(B) shall not be subject to a referendum under section 9 or 10(b) until the end of the 18-month period beginning on such effective date.

"(3) During the period prior to the referendum of an amendment issued pursuant to paragraph (1) and beginning on the effective date of such amendment, the Egg Board shall—

"(A) establish an escrow account to be used for assessment refunds; and

"(B) place funds in such account in accordance with paragraph (4).

"(4) The Egg Board shall place in such account, from assessments collected during the period referred to in paragraph (3), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

"(5) Subject to paragraphs (6), (7), and (8), any producer shall have the right to demand and receive from the Egg Board a one-time refund of assessments collected from such producer during the period referred to in paragraph (3) if—

"(A) such producer is responsible for paying such assessments;

"(B) such producer does not support the program established under this Act; and

"(C) the amendment issued pursuant to paragraph (1) is not approved pursuant to a referendum under section 9 or 10(b).

"(6) Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Egg Board.

"(7) Such refund shall be made on submission of proof satisfactory to the Egg Board that such producer paid the assessment for which refund is demanded.

"(8) If the amount in the escrow account required to be established by paragraph (3) is not sufficient to refund the total amount of assessments demanded by all eligible producers under this subsection and the amendment issued pursuant to paragraph (1) is not approved pursuant to a referendum under section 9 or 10(b), the Egg Board shall prorate the amount of such refunds among all eligible producers who demand such refund.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LEWIS of Florida. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Florida [Mr. LEWIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5318, the Egg Research and Consumer Information Act Amendments of 1988.

H.R. 5318 would provide the domestic egg industry with the ability to expand upon a self-help promotion program that was authorized more than a decade ago. The American Egg Board, created in 1975, has coordinated research, consumer information, and education to enhance the egg industry's position in the marketplace since that time. The board's activities are supported by an assessment that is paid by all egg producers and is tied to the quantity of eggs they produce.

The Egg Research and Consumer Information Act Amendments of 1988 would reaffirm the Secretary of Agriculture's authority to limit the total costs that may be incurred by the Egg Board in administering the promotion program. In addition, the bill as amended by the Committee on Agriculture would direct the Secretary to eliminate individual producer refunds of assessments subject to approval by a referendum of individual producers. The Secretary of Agriculture would be required to place into an escrow account 10 percent of the assessments received from egg producers. Then, 18 months from the date of the issuance of the amended order, the Secretary is to conduct a referendum of egg producers to determine the level of support for eliminating producer refunds. If two thirds of the producers voting in the referendum oppose the elimination of producer refunds, then the Secretary is to use the escrow account to pay refunds to eligible egg producers who request a refund. If the referendum is approved, the amount in the escrow account will revert to the Egg Board to be used in accordance with the purposes set forth in the Egg Research and Consumer Information Act.

Mr. Speaker, this bill borrows from the success of similar orders that exist for the beef, dairy, and pork industries. The committee believes that it is essential to authorize and provide for the establishment of an orderly procedure for developing and financing such research and consumer information programs, and to do so through such a self-help mechanism.

Mr. Speaker, more than two-thirds of all egg producers support eliminating refunds of producer assessments. They recognize the importance of providing sufficient funding for the Egg Research and Consumer Information Act as H.R. 5318 would do.

I urge my colleagues to support this important legislation.

Mr. Speaker, I yield such time as he may consume to my distinguished colleague the gentleman from Texas [Mr. STENHOLM], chairman of the subcommittee.

Mr. STENHOLM. Mr. Speaker, I rise in strong support of H.R. 5318, the Egg Research and Consumer Information Act Amendments of 1988.

This bill represents an effort to borrow from the success of the dairy, beef, and pork research and promotion programs and provide an opportunity for the U.S. egg industry to build a self-help program that will help strengthen the egg industry's position in the marketplace.

More specificially, this legislation provides an effective and coordinated method for assuring cooperative and collective action in providing for a financing program which can help meet the challenges that egg producers face today and in the future. The hallmark of such a program being all commercial egg producers contribute their fair share.

Thankfully, American consumers are becoming more aware of the nutritional value of the foods they eat. Eggs are natural candidates to meet emerging diet demands because of their high nutrient content and relatively low calorie value. In fact, egg proteins have traditionally been a standard by which other proteins are evaluated.

However, in spite of these attributes, there are still nagging issues—some real, some exaggerated, some imagined—facing the egg industry. Consequently, demand for eggs and egg products has plummeted.

According to the U.S. Department of Agriculture, the estimated number of egg producers in the United States for 1988 is 1,967. This number contrasts sharply with the 6,196 egg producers there were 9 years ago. Yet, in spite of this dramataic decrease, production of eggs has remained virtually constant—69.15 billion in 1988 versus 69.21 billion in 1979.

The Egg Research and Consumer Information Act (Public Law 93-428), although enacted in 1974, contains many of the tools needed to address the issues facing the egg industry today. The act established the Egg Board to carry out "an effective and coordinated program of research, consumer and producer education, advertising and promotion designed to strengthen the egg industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for eggs, egg products, spent fowl and products of spent fowl of the United States." However, sufficient funding is needed to enable the tools provided by the act to be used.

The egg industry realizes the need to provide sufficient funding to research and address the problems facing them today. A poll was conducted by the Egg Board of all commercial egg producers and the ballots were counted by the U.S. Department of Agriculture. Sixty-nine percent of the egg industry, representing 79 percent of the total U.S. production, voted in favor of eliminating refunds of producer assessments.

It is anticipated that the Secretary may provide for notice of and allow for comment on the elimination of the producer refund provision. However, H.R. 5318 will require the Secretary to amend the current Egg Research and Consumer Information Act order to eliminate producer refunds, subject to a later referendum.

Furthermore, H.R. 5318 will delay the conducting of a referendum on the amendment to the order eliminating producer refunds for a period of 18 months. During this time, the Secretary will be required to place into an escrow account 10 percent of the assessments received from egg producers. If the amendment to the order is not approved in the referendum, the escrow account will be used to pay refunds to eligible egg producers who request a refund. If the escrow account does not contain sufficient amounts to refund all eligible producers demanding a refund, then the Egg Board will prorate the amount of refunds received by eligible producers demanding a refund. If the amendment to the order is approved, the amount in the escrow the purposes set forth in the Egg Research and Consumer Information Act.

H.R. 5318 also would amend the Egg Research and Consumer Information Act to reaffirm the Secretary's authority to limit, to reasonable amounts, the total costs that may be incurred by the Egg Board in collecting producer assessments and for administrative costs.

In summary, I urge my colleagues to support this important legislation which will effectively serve both the egg industry and American consumers.

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Mr. LEWIS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before beginning on behalf of Mr. MADIGAN, Mr. JEFFORDS, and the rest of the members of the Agriculture Committee on this side, I would like to extend our appreciation to Chairman DE LA GARZA and CHARLIE STENHOLM for their efforts and expeditious manner in which they have brought this important legislation before the House.

This bill, H.R. 5318, is a modest effort to allow the egg industry to build a self-help program that will strengthen their position in the marketplace. In the midst of a severe economic crises, the egg industry has seen demand for their product plummets due to a variety of factors, including changing lifestyles and eating habits, cholesteral concerns, and most recently, salmonella outbreaks.

Borrowing from the success of similar programs for beef, dairy, and pork, the egg industry is in strong support of an industry funded program of egg promotion, research, and consumer and producer education. The intent is to provide an effective and coordinated method for a financing program which will help meet the challenges facing egg producers today and in the future. The hallmark of the program is its fairness. All commercial egg producers contribute their fair share.

Mr. Speaker, this legislation will provide an opportunity to build a program that brings out the facts and promotes eggs in a positive way. I urge may colleagues to support this important legislation which will effectively serve both the egg industry and the American consumer.

Mr. JEFFORDS. Mr. Speaker, I rise in support of H.R. 5318, the Egg Research and Consumer Information Amendments Act of 1988. I want to commend the subcommittee chairman, CHARLIE STENHOLM, for introducing this bill and steering it through the Agriculture Committee. As Mr. STENHOLM mentioned, this bill passed the committee unanimously and enjoys strong support within the egg industry.

H.R. 5318 would strengthen the egg promotion program by eliminating the provision in the current order that allows producers to receive a refund of the promotion assessment. Eighteen months after enactment, it provides for a producer referendum on whether or not to continue the promotion program. This will give producers an opportunity to evaluate the success of the promotion effort before deciding to make it permanent.

This legislation allows the egg industry to borrow from the success of similar promotion programs for the dairy, beef, and pork industries. The egg industry has been experiencing severe economic problems because—for a number of reasons—demand for eggs has dropped sharply. This measure will strengthen the self-help efforts of egg producers.

I urge all Members to support this legislation.

Mr. LEWIS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 5318, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MISSISSIPPI REVERSIONARY INTEREST RELEASE BILL

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4724) to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain lands located in Oktibbeha County, MS, as amended.

The Clerk read as follows:

H.R. 4724

By it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF REVERSIONARY INTEREST.

(a) RELEASE.—The Secretary of Agriculture (subject to the provisions of subsection (c)) shall take such actions as are necessary to release the restriction on the land described in subsection (b) that—

(1) requires that such land be used for public purposes; and

(2) is contained in a deed—

(A) granting such land from the United States to Mississippi State College (University),

(B) dated July 20, 1955, and

(C) recorded at page 293 of book 274 of the record of deeds at Oktibbeha County, Mississippi

(b) LEGAL DESCRIPTION.—The lands that are subject to this Act are—

(1) the East half (E½) of the Southeast Quarter (SE¼) of Section 9, Township 17 North, Range 13 East in Oktibbeha County, Mississippi, containing 80 acres more or less; and

(2) a strip of approximately 42.37 acres in section 10, T 17 N, R 13 E, Oktibbeha County, Mississippi, being located on part of the W½ of the W½ of the NE¼ and part of the E½ of the E½ of the NW¼ of said section, township, and range.

(c) AGREEMENT.—The Secretary of Agriculture, prior to releasing any of the restrictions contained in the deed described in subsection (a), shall enter into an agreement with Mississippi State College (University) which provides that the release of the restrictions contained in such deed shall be conditioned on the placing of identical restrictions on acceptable property of equal value acquired by the College (University) in exchange for the property described in subsection (b).

SEC. 2. SALE OF MINERAL RIGHTS.

(a) IN GENERAL.—Subject to any valid existing rights of third parties, the Secretary of the Interior shall convey to Mississippi State College (University) all of the undivided mineral interests of the United States in the lands described in section 1(b) as soon as practicable after the date of the compliance by Mississippi State College (University) with the provisions of subsection (b)(2).

(b) TERMS OF CONVEYANCE.—(1) Within 90 days after the date of the enactment of this Act, the Secretary of the Interior shall determine—

(A) the mineral character of the lands described in section 1(b); and

(B) the fair market value of the mineral interests referred to in subsection (a).

(2) Mississippi State College (University) shall pay to the United States—

(A) any administrative costs incurred by the United States in conveying such mineral interests to Mississippi State College (University), including costs of making the determinations required by paragraph (1); and

(B)(i) the fair market value of such mineral interests, or

(ii) $1, in the case of mineral interests in any land determined by the Secretary of the Interior to have no value and to be under no active mineral development or leasing.

The SPEAKER pro tempore. Is a second demanded?

Mr. MORRISON of Washington. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Washington [Mr. MORRISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4724, which would direct the Secretary of Agriculture to release a reversionary interest of the United States in two parcels of land in the State of Mississippi, with certain conditions.

H.R. 4724 was introduced by our colleague from Mississippi, [Mr. MONTGOMERY] on June 1, 1988, and considered by the Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture on September 22. The subcommittee and full committee subsequently approved the bill with two amendments suggested by the Department of Agriculture.

The lands affected by this bill consist of approximately 120 acres located along the exterior boundary of a Mississippi State University experimental forest. The land was deeded along with other lands by the United States to Mississippi State College—now Mississippi State University—in 1955 under the Bankhead-Jones Farm Tenant Act. In transferring the land, the United States retained a reversionary interest that provides that ownership will revert back to the United States if the land ceases to be used for public purposes.

Mississippi State University now seeks to exchange these tracts of land for a privately owned 120-acre parcel within the same forest, but is prevented from doing so by the public-use restriction. H.R. 4724 would allow the exchange to proceed by requiring the release of the reversionary interest. To protect the interests of the United States, this release is conditioned upon the placing of identical public-use restrictions on property of equal value acquired by the university in exchange for the subject lands.

The 1955 deed also reserved to the United States an undivided three-quarters interest in all minerals and mining rights associated with the property transferred to the university. H.R. 4724, as amended, provides for the sale of those mineral rights to the university for fair market value, or $1 if the mineral interests have no value. The university is required to pay any administrative costs incurred by the United States in determining the value of, and conveying, the mineral interests.

Mr. Speaker, I recommend that the House pass H.R. 4724, as amended.

Mr. MORRISON of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4724, legislation releasing a reversionary interest of the United States in land located in Oktibbeha County, MS.

The land, which totals approximately 122 acres, was acquired by the United States in the 1930's and was deeded to Mississippi State College, now university, in 1955 under the Bankhead-Jones Farm Tenant Act of 1937. These lands are now part of the John W. Starr Memorial Forest. The Bankhead-Jones law requires that these lands may only be sold, exchanged or granted to public authorities if the property is used for public purposes. When and if the land ceases to be used for public purposes, title reverts to the United States.

The university wishes to exchange this land for another tract. In order to accomplish this, the reversionary restriction must be removed.

H.R. 4724 requires the Secretary of Agriculture to enter an agreement with the State of Mississippi that ensures that the university places public use restriction on land it acquires in the exchange. It further directs the Secretary of the Interior to convey to Mississippi State University all of the undivided mineral rights of the United States in the land and requires that university pay the United States the fair market value of the mineral interests or $1 in the event the mineral interests have no value—a standard procedure.

On September 22, the bill was amended in the Subcommittee on Forests, Family Farms and Energy, as suggested by the Forest Service, to ensure that the reversionary interest is transferred to a suitable tract of equal value. Hence, the bill has the support of the administration. The bill passed the full Committee on Agriculture on September 29 by voice vote.

The Congressional Budget Office expects no significant additional costs to the Federal Government or to State and local governments resulting from the passage of this legislation.

Mr. Speaker, I urge my colleagues to suspend the rules and pass H.R. 4724, as amended.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of H.R. 4724, the bill to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Oktibbeha County, MS.

I introduced this legislation and want to thank Chairman DE LA GARZA, ranking member ED MADIGAN and the full Agriculture Committee for acting on the measure and bringing it to the floor for consideration today. I appreciate the work HAROLD VOLKMER did in moving the bill out of his subcommittee, and I also want to thank the ranking member of the subcommittee, SID MORRISON.

The purpose of the bill is very simple. We are exchanging 120 acres of publicly owned land for an equal acreage of privately owned land, to enable Mississippi State University to better administer its forest and wildlife research programs.

The United States conveyed title to 5,741 acres of land in northeast Mississippi to Mississippi State University in 1955. One provision in that conveyance stipulated that ownership of the land reverted to the United States if it ceased to be used for public purposes.

The problem is that there are 120 acres of privately owned land right in the middle of this public land. Having a tract of private land in the middle of MSU's research area has placed restrictions on how some of those research programs could be administered. This bill will solve that problem.

There is no controversy. The landowner and the university have worked together on this. I think approval of the bill will be in the best interest of everyone involved. I urge passage of H.R. 4724, and I again thank the Agriculture Committee for bringing it to the floor.

Mr. MORRISON of Washington. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 4724, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONCURRING IN SENATE AMENDMENT TO H.R. 4345, GRAIN STANDARDS ACT AMENDMENTS OF 1988, WITH AMENDMENT

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 564) providing

for concurring in the Senate amendment to H.R. 4345, to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes, with an amendment.

The Clerk read as follows:

H. RES. 564

Resolved, That, upon the adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill H.R. 4345, to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes, with the Senate amendment thereto, and concurred in the Sente amendment to the text with an amendment as follows:

In lieu of the matter inserted by the Senate amendment to the text of the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Grain Standards Act Amendments of 1988".

SEC. 2. GRAIN STANDARDS ACT.

Effective for the period October 1, 1988, through September 30, 1993, inclusive, the United States Grain Standards Act is amended—

(1) by amending subsection (j) of section (7 U.S.C. 79(j)) to read as follows:

"(j)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs related to such official inspection of grain. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.

"(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service relating to supervision of official agency personnel and supervision by Service personnel of its field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary and adjusted to the nearest one-eighth of 1 per centum.

"(3) Any sums collected or received by the Administrator under this Act and deposited to the fund created in paragraph (1) of this subsection and any late payment penalties collected by the Administrator and credited to such fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The interest earned on such sums and any late payment penalties collected by the Administrator shall be credited to the fund and shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.";

(2) by amending subsection (1) of section 7A (7 U.S.C. 79(a)(1)) to read as follows:

"(1)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Service incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 7(j) of this Act.

"(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service relating to supervision of the agency personnel and supervision by Service personnel of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under sections 7(g)(3), 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 7(j) of this Act. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.";

(3) by adding before section 8 (7 U.S.C. 84) the following new section:

"LIMITATION ON ADMINISTRATIVE AND SUPERVISORY COSTS

"SEC. 7D. The total administrative and supervisory costs which may be incurred under this Act for inspection and weighing (excluding standardization, compliance, and foreign monitoring activities) for each of the fiscal years 1989 through 1993 shall not exceed 40 per centum of the total costs for such activities carried out by the Service for such years.";

(4) by amending section 19 (7 U.S.C. 87h) to read as follows:

"APPROPRIATIONS

"SEC. 19. There are hereby authorized to be appropriated such sums as are necessary for standardization and compliance activities, monitoring in foreign ports grain officially inspected and weighed under this Act, and any other expenses necessary to carry out the provisions of this Act for each of the fiscal years during the period beginning October 1, 1988, and ending September 30, 1993, to the extent that financing is not obtained from fees and sales of samples as provided for in sections 7, 7A, and 17A of this Act."; and

(5) by adding at the end thereof the following new section:

"ADVISORY COMMITTEE

"SEC. 21. (a)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall establish an advisory committee to provide advice to the Administrator with respect to implementation of this Act consistent with the declarations of policy in section 2 of this Act. The advisory committee shall consist of 15 members, appointed by the Secretary, who represent the interests of all segments of the grain producing, processing, storing, merchandising, consuming, and exporting industries, including grain inspection and weighing agencies and scientists with expertise in research related to the policies established in section 2 of this Act. Members of the advisory committee shall be appointed to 3-year terms, except that of the initial 15 members of the advisory committee first appointed following the enactment of this section, five shall be appointed for terms of 1 year and five shall be appointed for terms of 2 years. No member of the advisory committee may serve successive terms.

"(2) To ensure a smooth transition, the advisory committee established under section 20 (as in effect prior to October 1, 1988) shall continue in existence until all members of the advisory committee established under this section are appointed; and the Secretary may appoint members of the advisory committee established under section 20 to serve on the advisory committee established under this section, without regard to the time of service of such members on the advisory committee established under section 20.

"(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2).

"(c) The Administrator shall provide the advisory committee with necessary clerical assistance and staff personnel.

"(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this Act, be allowed travel ex-

penses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.".

SEC. 3. PILOT PROJECT ON CLEAN GRAIN PREMIUMS.

STUDY OF PREMIUMS AND DISCOUNTS.—

(1) AUTHORITY.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall conduct a study of the schedule of premiums and discounts applied to loans made in accordance with the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) in order to determine how premiums and discounts can be used to encourage the production, marketing, and exporting of high quality, clean grain.

(2) REPORT BY SECRETARY.—Not later than May 1, 1989, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the results of the study conducted under paragraph (1).

(3) RECOMMENDATIONS.—The Secretary shall include recommendations with respect to a schedule of premiums and discounts in the report prepared under paragraph (2).

(b) PILOT PROJECT.—

(1) ESTABLISHMENT BY SECRETARY.—The Secretary shall establish a pilot project for the 1989 crops of wheat, soybeans, and feed grains to test the effectiveness of the recommendations contained in the report prepared under subsection (a) in encouraging the production, marketing, and exporting of high quality, clean grain.

(2) SIX MULTI-COUNTY AREAS.—The pilot project established under paragraph (1) shall be conducted in no less than six multicounty areas, of which—

(A) two shall be areas that are predominantly wheat-producing areas;

(B) two shall be areas that are predominantly corn-producing areas; and

(C) two shall be areas that are predominantly soybean-producing areas.

(a) CONSULTATION.—The Secretary, prior to the implementation of the pilot project, shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) REVIEW OF PILOT PROJECT.—Not later than 180 days after the end of the 1989 marketing year for feed grains, the Secretary shall conduct a review of the pilot project established under subsection (b) and prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the result of the project. The report shall include recommendations for further encouraging the production, marketing, and exporting of high quality, clean grain.

SEC. 4. COTTON STANDARDS.

Subsection (a) of section 5 of the United States Cotton Standards Act (7 U.S.C. 55(a) is amended—

(1) by striking out the second sentence; and

(2) by adding at the end thereof the following new sentences: "Any fees or charges, late payment penalties, or proceeds from the sales of samples collected under this subsection, and any interest earned through the investment of such funds shall be credited to the current appropriation account that incurs the costs of the services provided under this Act, and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing services and standards under this Act and the United States Cotton Futures Act (7 U.S.C. 15b). Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts, or, at the discretion of the Secretary of the Treasury in United States Government debt instruments.".

SEC. 5. STUDY OF EFFECTS OF INCLUDING DOCKAGE WITH FOREIGN MATERIAL AS A GRADING FACTOR FOR WHEAT.

Not later than June 1, 1989, the Secretary of Agriculture, through the Federal Grain Inspection Service, shall—

(1) conduct a study of the effects of including dockage with foreign material as a grading factor for wheat; and

(2) submit a report on the results of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

The SPEAKER pro tempore. Is a second demanded?

Mr. ROBERTS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4345 will extend, for 5 years, the authority for the Federal Grain Inspection Service to impose certain fees.

H.R. 4345 will extend until September 30, 1993: First, the authority under current law for the Federal Grain Inspection Service to charge user fees equal to the administrative and supervisory costs associated with official inspection and weighing services conducted under the U.S. Grain Standards Act; second, the authority for the FGIS Administrator to invest those fees in insured or collateralized interest-bearing accounts or in debt instruments issued by the U.S. Government; third, a limit on the amount of spending by the Administrator for administrative and supervisory activities related to inspection and weighing—excluding costs of standardization, compliance, and foreign monitoring activities—such spending cannot exceed an amount equal to 40 percent of the total costs for such activities; and fourth, the authorization of appropriations for expenses of FGIS not met by user fees and sales of samples.

Also, the legislation will establish a new Grain Inspection Advisory Committee and authorize a pilot project relating to grain quality premiums and discounts applicable to grain put under CCC loan.

The House passed H.R. 4345 on May 23, 1988. Then, last week, the Senate passed the bill with several revisions. The Senate amendment to H.R. 4345 added a study of grain quality premiums and discounts to the House pilot project provision, while at the same time making several technical revisions of the House pilot project provisions.

The Senate added new provisions: First, relating to haying and grazing on conserving use acreage; second, requiring a study of the effect of including dockage with foreign material as a grading factor for wheat; and third, to authorize the Secretary of Agriculture to invest fees collected under the U.S. Cotton Standards Act in interest-bearing accounts.

Finally, the Senate amendment made several technical changes in the language of the bill relating to the Grain Inspection Advisory Committee.

Today, I propose a House amendment to the Senate amendment that I believe is a fair compromise between the House and Senate versions of this important legislation. This compromise, which has the support of those Members working on this legislation, is designed to avert the need for a conference so that the current authority for fees, which expired on September 30, can be renewed as quickly as possible.

I would note that there are no House-Senate differences on key provisions of the bill, those relating to the fees. The bills are identical.

Under the compromise, the bill will include the Senate technical revisions of the Advisory Committee and the pilot program provisions.

Also, the compromise will include the Senate provisions on the premium and discount study—except for the provisions relating to the National Academy of Sciences—the dockage study, and the investment of cotton classing fees. As to the last, I note that the House has already approved a cotton fee investment provision in a separate bill, H.R. 4615, that it is not anticipated the Senate will act on.

The compromise does not include the Senate-proposed haying and grazing provisions. These provisions are not included simply because we do not have the time needed to resolve the serious issues that led to the Senate action on this issue. It is my hope that, at a later date, the matter will be pursued so that any problems with the haying and grazing program can be resolved.

Mr. Speaker, the compromise represented by the House amendment before us gives fair treatment to both the House and Senate positions on the legislation. I urge speedy action on the House amendment, to minimize any disruption of the operations of the Federal Grain Inspection Service.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering under suspension of the rules a bill, H.R. 4345, previously passed by the House last May. Since that time, the other body passed H.R. 4345 with amendments. The bill under consideration today is further amended and should be acceptable to all interested parties.

Mr. Speaker, I would like to commend the chairman of the House Committee on Agriculture, Mr. DE LA GARZA, for his dedicated leadership on matters of grain quality. H.R. 4345 amends the U.S. Grain Standards Act to provide for a 5-year reauthorization of appropriations and fee collection authorities for the Federal Grain Inspection Service [FGIS]. FGIS constitutes one of the most important export oriented agencies available to our grain producers. The agency assures foreign purchasers that the grains they purchase meet the standards and quality specified for in their purchase contracts. I like to think of FGIS as a consumer protection agency for our foreign customers, and I think they have performed an admirable job.

We need to get this reauthorization through on a timely basis, Mr. Speaker. FGIS depends on the authorities provided for in this bill to assess inspection fees. Without this legislation their operating authority reverts to the pre 1981 version of the U.S. Grain Standards Act. That statute does not allow them to levy fees that recover supervisory and administrative costs related to their inspection operations.

In absence of passing a reauthorization bill the operating shortfall for FGIS would equate to a loss of $35,000 per day. Furthermore, the agency would lose their authority to invest in interest bearing Government issues, as well as the authority to continue the operation of an advisory panel composed of grain producers, processors, and exporters.

I urge the support of my colleagues for this noncontroversial bill.

Mr. BEREUTER. Mr. Speaker, I rise in strong support for final passage of H.R. 4345, the U.S. Grain Standards Act of 1988. It is important legislation that sends the right signal to our grain producers, consumers, and our export sector.

When the House Agriculture Committee took action on the Federal Grain Inspection Service Reauthorization Act (H.R. 4345), it added a proposal that this Member introduced last year in H.R. 3342, the Grain Quality Incentive Act of 1987. The amendment allows for a 1-year pilot project that will offer incentives for the delivery, storage, and exportation of clean, quality grain.

In this legislation this Member had proposed a 3-year pilot program as a reasonable period of time to conduct a demonstration and to allow producers in designated areas to take advantage of these incentives. Nevertheless, this is an important step that Congress is recommending.

It would also establish a Grain Advisory Board appointed by the Secretary of Agriculture for the purpose of developing economic incentives that will improve the performance and sanitation quality of grain. The pilot project would include no less than six multicounty areas as my proposal originally called for, designated by the Secretary after consulations with the Grain Advisory Committee, and represent our three major export commodities—wheat, corn, and soybeans.

I would like to thank the chairman of the subcommittee, the distinguished gentleman from Kansas [Mr. GLICKMAN] who represents half my relatives and my neighbor from Kansas [Mr. SLATTERY] who worked closely with the Member in suggesting these and other amendments to the original bill, and to still another distinguished gentleman from Kansas [Mr. ROBERTS] who also advised and assisted this member with his very extensive knowledge on these and other matters related to grain quality.

These provisions of H.R. 4345, as amended consistent with my initiative, are a good first step in assisting grain quality efforts. Surely some resources should be devoted for those interested in producing and marketing high quality grain. This initiative, if properly implemented, will go a long way in reestablishing or strengthening the reputation of establishing the United States as a dependable supplier in quality, as well as in quantity, in the increasingly competitive world grain market. It will also establish a base on which to study the premium program and to initiate a nationwide incentive for producers as well as exporters interested in maintaining and expanding quality grain exports into the 1990's.

The members intends to continue working with the leadership of the House Agriculture Committee, as well as the commodity and farm groups in Nebraska and other parts of our Nation, to strengthen an American Clean Grain Program and to send a message that Congress of the United States in particular is serious about delivering high quality, clean grain to domestic and foreign customers who demand and pay for that quality.

I urge support for H.R. 4345.

Mr. GRANDY. Mr. Speaker, I rise today in support of the Grain Standards Act Amendment of 1988. The Federal Grain Inspection Service [FGIS] provides an invaluable service to our agricultural and trade sector.

However, as passed by the Senate, this necessary legislation included language which would have required the National Academy of Sciences [NAS] to assist in a study of grain quality.

As passed in the Senate, this study would have called on the Academy to determine how premiums and discounts can be used to encourage the production, marketing, and exporting of high quality, clean grain. However, there is no indication that the NAS has any expertise in the area of grain quality.

The subject of grain premiums is much too sensitive to the future of production agriculture to be studied by anything less than the most experienced and highly qualified organization. Since there are literally hundreds of agriculture study groups, I feel that America's farmers and agribusinessmen are better served with a study conducted by the best qualified agricultural group. This is why I strongly objected to Congress specifying one particular organization that FGIS would coordinate with to conduct the study.

I am extremely pleased that the bill that we are sending back to the Senate does not contain any reference to the National Academy of Sciences. This important change in the bill will allow the Director of the Federal Grain Inspection Service to work with proven agricultural academic groups to conduct a study without forcing FGIS to work with a study group lacking any proven ability in grain quality issues.

The following agricultural-related groups are examples of organizations that the Director of FGIS should consider to conduct the grain premium study:

The Grain Quality Workshop, which produced the highly regarded report, 'Commitment to Quality."

The Council for Agricultural Science and Technology [CAST], based in Ames, IA.

Any of the individual land-grant universities such as Iowa State University, the University of Illinois, or Kansas State University.

In addition, I would like to commend Chairman DE LA GARZA and Vice Chairman MADIGAN of the Committee on Agriculture, and also Mr. ROBERTS, the ranking member of the Department Operations, Research, and Foreign Agriculture Subcommittee for their efforts in moving this legislation forward and for working out the differences between the House and Senate versions. I urge my colleagues to support the Grain Standards Act Amendments of 1988.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and agreed to the resolution, House Resolution 564.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the 3 bills previously considered, H.R. 5318, H.R. 4724, and H.R. 4345, with House Resolution 564.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADMIRALTY ISLAND NATIONAL MONUMENT LAND MANAGEMENT ACT OF 1987

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2596) to improve Federal management of lands on Admiralty Island, AK.

The clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Admiralty Island National Monument Land Management Act of 1987".

(b) PURPOSE.—The purpose of this Act is to improve Federal management of lands on Admiralty Island, Alaska, as provided herein.

SEC. 2. FINDINGS.

The Congress hereby finds that—

(a) Admiralty Island National Monument, Alaska, is an area of unparalleled natural beauty containing multiple values including, but not limited to, fish, wildlife, forestry, recreational, subsistence, educational, wilderness, historical, cultural, and scenic values of enduring benefit to the Nation and the Native peoples residing therein; and

(b) Land management and Federal administration of Admiralty Island National Monument may be enhanced by Federal land acquisitions, through land exchanges or otherwise, and by cooperative agreements between the Federal Government and the indigenous residents of the Island, the people of the City of Angoon and the Native Village Corporation, Kootznoowoo, Incorporated.

SEC. 3. LAND ACQUISITION AND EXCHANGE.

(a) Section 506(a) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) is hereby amended by adding at the end thereof the following new paragraph:

"(9)(A) The Secretary is authorized and directed to: Enter into such cooperative agreements and agreements for land acquisitions, through exchange or otherwise, with Kootznoowoo as are deemed necessary by the Secretary to carry out the purposes specified in sections 101 and 503 of this Act and to improve the management of Federal lands on Admiralty Island.

"(B) The Secretary shall make every effort to complete agreements within eighteen months of the date of enactment of this paragraph.

"(C) The Secretary shall report to Congress before the end of such eighteen-month period on the status and results of negotiations with Kootznoowoo. The report shall include, but not be limited to, any Kootznoowoo properties proposed to be acquired by the United States, any Federal lands or other compensation to be offered in exchange, and the text of any proposed or executed agreements.

"(D) Any lands on Admiralty Island acquired by the United States pursuant to this paragraph shall be added to and incorporated within the Admiralty Island National Monument.

"(E) The inability of the Secretary and Kootznoowoo to reach agreement shall not preclude subsequent negotiations at any time for the purposes of land exchanges or other matters.

"(F) Enactment of this paragraph shall not create any right or cause of action by Kootznoowoo, Incorporated, or any other party against the United States.".

SEC. 4. LAND SELECTION CONSOLIDATION.

(a) Section 506(a)(5) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) is hereby amended by adding at the end thereof the following new subparagraphs:

"(C) In order to consolidate Federal land ownership and improve management of land and timber resources in the area, lands within the sale area and lands between such sale area and lands lying to the east of such sale area which have been or may be conveyed to Kootznoowoo pursuant to this paragraph (5), and not otherwise committed by contract, shall be specifically considered by the Secretary for exchange with Kootznoowoo, Incorporated. Nothing in this section shall affect valid land selections which the State of Alaska has filed with the Federal Government under Public Law 85-508.

"(D) The Secretary of Agriculture may require as a condition precedent to any exchange of lands with Kootznoowoo, Incorporated, pursuant to this Act that any party (other than the United States) owning the subsurface estate in lands proposed to be transferred to the United States by Kootznoowoo, Incorporated, in furtherance of such exchange agree to transfer such subsurface estate to the United States in exchange for the subsurface estate in the lands proposed to be transferred to Kootznoowoo, Incorporated, in furtherance of such exchange.

"(E) Any transfers pursuant to subparagraphs (C) and (D) of this paragraph shall be subject to valid existing rights.

"Nothing in subparagraphs (C) and (D) shall create a right or cause of action by Kootznoowoo, Incorporated, or any other party against the United States.".

SEC. 6. ADMINISTRATIVE PROVISIONS.

(a) Section 703(a)(1) of the Act is amended by deleting the words "Admiralty Island National Monument Wilderness" and inserting in lieu thereof "Kootznoowoo Wilderness".

(b) Lands transferred, exchanged, or granted pursuant to provisions of section 506(a) of the Act shall be deemed to have been transferred, exchanged, or granted as of January 9, 1981: Provided, That this effective date not be construed in any way so as to obligate any payments by the United States, or as to require the escrow of any funds which may have been generated on such lands prior to December 2, 1980.

(c)(1) All rights, title, and interests to that portion of the approximately 17.34 acres comprising the Angoon Administrative Site which, pursuant to paragraph (c)(2) of this section, the Secretary dictates for uses related to the administration of the Tongass National Forest, are hereby confirmed in the United States, said parcel being a valid existing Federal administrative site as referenced in section 506(a)(3)(A) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended). Said administrative site is located on Admiralty Island in township 50 south, range 68 east, section 31, Copper River Meridian and township 50 south, range 67 east, section 36, Copper River Meridian.

(2) Within one year of enactment of this paragraph, the Secretary of Agriculture shall adjust, and resurvey as necessary, the boundaries of the Angoon Administrative Site to include only that portion of the site described as follows:

(A) those lands which lie within the following described boundaries, comprising 4.68 acres more or less:

Beginning at corner 1, also corner 9 of United States survey number 3756;

Thence north 45 degrees 30 minutes west 540.79 feet to corner 2,

Thence north 45 degrees 00 minutes east 376.60 feet to corner 3,

Thence south 45 degrees 30 minutes east 540.79 feet to corner 4,

Thence south 45 degrees 00 minutes west 376.60 feet to corner 1, also corner 9 of United States survey number 3756, the point of beginning.

(B) those lands which lie within that area adjoining the northeastern boundary of the 4.68 acre tract and the mean high tide line of Kootznoowoo Inlet, subject to a perpetual public easement for the existing Angoon-Killisnoo Road; and

(C) an easement for road and utility access to the 4.68 acre tract from the western or southern boundary of the 17.34 acre site. To the maximum extent feasible, the Secretary shall locate said easement to connect to and follow the existing right of way for Relay Road, which lies between lots 1 and 6 of the Samuel G. Johnson subdivision. Said easement shall be at a precise location and of dimensions which the Secretary determines is reasonably necessary for present and projected Federal uses of the site related to administration of Tongass National Forest. Said easement shall be subject to any valid existing rights except those of Kootznoowoo, Incorporated: Provided, That the easement shall not be located on any lands conveyed by Kootznoowoo, Incorporated to a third party prior to June 1, 1988, without the express consent of such party: Provided further, That the Secretary shall exclude from the lands so retained those lands which were occupied on June 1, 1988, by structures and improvements that were not constructed by or for the United States including easements related thereto, or which were constructed by or for the United States but which the Secretary determines are not reasonably necessary for present or projected Federal uses related to the administration of the Tongass National Forest: And provided further, That the Secretary shall not exclude from the 4.68 acre tract any lands occupied by existing power utility lines or poles, and the lands so occupied shall be subject to an easement to allow for their continued use, maintenance, and repair.

(3) Title to all lands within the 17.34 acre administrative site which are not included by the Secretary in the adjusted area provided by paragraph (c)(2) shall be conveyed by the Secretary of Agriculture by quitclaim deed to Kootznoowoo, Incorporated.

(4) The provisions of paragraphs (c)(2) and (c)(3) are subject to the condition precedent that Kootznoowoo, Incorporated executes an appropriate written agreement acceptable to the United States Attorney for the District of Alaska to dismiss, with prejudice, the pending litigation entitled Kootznoowoo, Inc. v. United States Department of Agriculture, Forest Service, Civil number A84-575, in the United States District Court for the District of Alaska, and agrees therein that Kootznoowoo, Incorporated and the United States shall each bear their own costs of said litigation, including attorney's fees.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 min-

utes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House passed H.R. 2596 over a year ago. It is a bill sponsored by Mr. YOUNG of Alaska and Mr. MILLER of California and deals with the Admiralty Island National Forest Monument, in southeast Alaska.

As passed by the House, the bill contained some of the noncontroversial elements that had earlier been included in legislation to improve the landownership and management situation on Admiralty Island in a more comprehensive way. That comprehensive bill passed in the House in the 99th Congress but unfortunately was not acted on by the Senate.

H.R. 2596 is a much more modest measure, limited in its scope to matters involving the relationship between the Forest Service and the village of Angoon and Kootznoowoo, Inc., the native corporation under the Alaska Native Claims Settlement Act whose shareholders are the people of Angoon. Angoon is the only village located on Admiralty Island.

The essence of the House-passed bill was a requirement that the Forest Service enter into serious negotiations with Kootznoowoo aimed at completing land acquisitions and cooperative agreements for the better management of the national forest monument. It also provided for a possible consolidation of land ownership elsewhere in the Tongass National Forest, in the event that an existing timber sale was voluntarily relinquished or canceled. It allowed Kootznoowoo to treat its lands as having been acquired on single date. And it renamed the wilderness area within the Admiralty Island National Forest Monument by adopting the Tlingit name for the island, Kootznoowoo, meaning "Fortress of the Bears."

Now the Senate has returned the bill to us in amended form. I must say that the Senate's version does not produce much enthusiasm as far as I am concerned. However, I believe that it is acceptable and worth enactment, and for this reason I am asking the House to concur in the Senate's amendment and thus clear the bill for the President.

Mr. Speaker, the overall theme of the Senate modifications is a softening of the directives to the Forest Service. Less is mandated; more is authorized and encouraged. Because of the constraint of the short remaining time in this Congress, I am asking the House to accept these changes. Nonetheless, I want to emphasize the intent which stands behind the bill.

Many of the Senate changes were included to secure the acceptance of H.R. 2596 by the administration. The Forest Service should recognize, however, that we expect that those issues which are referred to Kootznoowoo, the people of Nagoon, and the Forest Service for study, consultation, and negotiation will lead to actions through land acquisition, land exchanges, or cooperative management agreements. Much of the burden for this result falls on the Forest Service, and this is the reason H.R. 2596 requires a report to Congress by the Secretary. If action is not taken or is delayed unnecessarily, it will be necessary to take this matter up again in a future Congress.

Several aspects of the bill related to Alaska Native Claims Settlement Act [ANCSA] conveyances to Kootznoowoo. For a variety of reasons. Kootznoowoo has experienced difficulties with respect to its conveyance that are unique among native corporations. These problems, including delayed conveyances of selected lands, have made it difficult for the corporation to bring economic benefit to its native shareholders. Because this bill requires studies and negotiations, some may think it is a basis for further delaying the conveyance process. To the contrary, conveyances due to Kootznoowoo should be made expeditiously. We expect the Bureau of Land Management, the agency charged with making conveyances under ANCSA, to make every attempt to expedite the transfers to Kootznoowoo.

Mr. Speaker, Admiralty Island is both a conservation system unit, which preserves important values of national and international significance, and the traditional home for the people of Angoon. By facilitating cooperative planning and land acquisition between the Forest Service and Kootznoowoo, H.R. 2596 will establish a pattern of cooperative land management to serve both the national and local interests in Admiralty Island. In addition, the renaming of the wilderness area is an appropriate recognition of the Native American role in the island's history. I urge the House to concur in the Senate amendment.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion to suspend the rules and to concur in the Senate amendments to H.R. 2596, a bill to improve the Federal management of Admiralty Island, in southeast Alaska. This bill, introduced by me and my friend and colleague, Mr. MILLER, chairman of the Subcommittee on Water and Power Resources, passed the House about a year ago by an overwhelming margin. The bill has been referred back to the House with changes by the other body—changes which reduce some of the problems with the bill, and increase greatly its chances of becoming law this year. The intent of the bill before us at this time remains the same—to direct the U.S. Forest Service to negotiate with the good people of Kootznoowoo Native Corp. from Angoon on Admiralty Island about cooperative land use and land acquisitions agreements.

Admiralty Island is a beautiful island in southeast Alaska, home to the largest concentration of brown bears in America, and blessed with fish and wildlife and enormous timber and mineral resources. During the last Congress, the House passed legislation sponsored by me designed to strike an acceptable balance in the use of the island's diverse natural resources, but national environmental groups were unwilling to discuss any trades for lands important to them during the negotiations, and the bill died in the last days of the session without Senate consideration. The bill before us is a smaller part of that comprehensive effort at land management reform, and will result in improvements in land management for the United States and for Kootznoowoo.

I remain committed to an overall Admiralty Island solution which would include tradeoffs for all of the interest groups concerned with southeast Alaska, and meet my primary goal of creating stable land designations which will result in the economic progress so important to all Alaskans, while maintaining the quality of life we all seek. I congratulate my two Senators for their fine work on this legislation, and the Forest Service for their continuing interest in the management of the Tongass National Forest, our largest and most rich national forest.

Mr. MILLER of California. Mr. Speaker, I am pleased to be an original cosponsor of H.R. 2596 along with the gentleman from Alaska [Mr. YOUNG]. This bill is intended to improve management of the Admiralty Island National Monument, an integral part of the Tongass National Forest in southeast Alaska. H.R. 2596 also makes certain changes in existing law in recognition of the unique status of the Tlingit Indian residents of Angoon and their Native Village Corp., Kootznoowoo, Inc.

H.R. 2596 was passed by the Senate with some modifications. Because time is short in this Congress, there will be no conference to resolve our differences. However, Forest Service implementation of this legislation will be a matter of continued interest for myself

and other members of the Committee on Interior and Insular Affairs.

A primary objective of H.R. 2529 is to foster a more cooperative working relationship between the Forest Service and Kootznoowoo. In the past, the Forest Service has been reluctant to give high-enough priority to addressing management issues related to Kootznoowoo's land holdings.

H.R. 2529 directs that, over the next 18 months, the Forest Service and Kootznoowoo seek cooperative agreements on land management actions and acquisitions. Among other goals, such agreements could help Kootznoowoo consolidate its property and the Forest Service to acquire lands to aid in protecting the national monument from possible development threats on private inholdings. Cooperative agreements could benefit both the community of Angoon and the national interest in wise management of Admiralty Island. We consider these matters to be of significant importance that the Forest Service is specifically directed to report back to Congress on its progress.

In a related matter, I am aware that the Bureau of Land Management [BLM] has been slow in completing the conveyance of Kootznoowoo's land selections. This has also disadvantaged the Village Corp's. ability to manage its Alaska Native Claims Settlement Act [ANCSA] entitlement. The intent of this legislation is to expedite a solution to Kootznoowoo's land management problems; it should not be used as an excuse by BLM for further delay.

Among the provisions of H.R. 2529, one is especially symbolic; the 900,000 acre wilderness within the Admiralty Island National Monument is renamed the "Kootznoowoo Wilderness." In Tlingit, Kootznoowoo means "Fortress of the Bears." This name change is most appropriate. It memorializes the long and proud Tlingit heritage of Angoon, the only permanent settlement on Admiralty Island.

While H.R. 2596 is an important step forward in addressing Admiralty Island's management problems, there is more to be done. Last year, I had the opportunity to visit the remarkable community of Angoon and to spend time in the spectacular natural setting of Mitchell Bay. I developed an appreciation of the importance that the people of Angoon place on preserving the subsistence values of their island home.

Yet only a few miles to the north of the village, native corporation logging operations at Cuba Cove threaten both the wilderness character of Admiralty Island National Monument and the traditional subsistence practices of the Tlingit Indians of Angoon. The Senate failed to approve House-passed legislation in the 99th Congress and some believe the Cube Cove issue to be dead. But having seen first hand the destructive effects of the massive clear cuts, I believe it is in the national interest to continue to work to acquire the private inholdings at Cube Cove. I urge the Forest Service and all affected parties to develop a comprehensive and equitable proposal that can serve as the basis for future legislation.

Mr. Speaker, I urge the passage of H.R. 2596.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr VENTO] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2596.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to cluse 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

HOOPA-YUROK SETTLEMENT ACT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2723) to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes.

The Clerk read as follows:

S. 2723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Hoopa-Yurok Settlement Act".

(b) DEFINITIONS.—For the purposes of this Act, the term—

(1) "Escrow funds" means the moneys derived from the joint reservation which are held in trust by the Secretary in the accounts entitled—

(A) "Proceeds of Labor-Hoopa Valley Indians-California 70 percent Fund, account number J52-561-7197";

(B) "Proceeds of labor-Hoopa Valley Indians-California 30 percent Fund, account number J52-561-7236";

(C) "Proceeds of Klamath River Reservation, California, account number J52-562-7056";

(D) "Proceeds of labor-Yurok Indians of Lower Klamath River, California, account number J52-562-7153";

(E) "Proceeds of Labor-Yurok Indians of Upper Klamath River, California, account number J52-562-7154";

(F) "Proceeds of labor-Hoopa Reservation for Hoopa Valley and Yurok Tribes, account number J52-575-7256"; and

(G) "Klamath River Fisheries, account number 5628000001";

(2) "Hoopa Indian blood" means that degree of ancestry derived from an Indian of the Hunstang, Hupa, Miskut, Redwood, Saiaz, Sermalton, Tish-Tang-Atan, South Fork, or Grouse Creek Bands of Indians;

(3) "Hoopa Valley Reservation" means the reservation described in section 2(b) of this Act;

(4) "Hoopa Valley Tribe" means the Hoopa Valley Tribe, organized under the constitution and amendments approved by the Secretary on November 20, 1933, September 4, 1952, August 9, 1963, and August 18, 1972;

(5) "Indian of the Reservation" shall mean any person who meets the criteria to qualify as an Indian of the Reservation as established by the United States Court of Claims in its March 31, 1982, May 17, 1987, and March 1, 1988, decisions in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102-63);

(6) "Joint reservation" means the area of land defined as the Hoopa Valley Reservation in section 2(b) and the Yurok Reservation in section 2(c) of this Act.

(7) "Karuk Tribe" means the Karuk Tribe of California, organized under its constitution on April 6, 1985;

(8) "Secretary" means the Secretary of the Interior;

(9) "Settlement Fund" means the Hoopa-Yurok Settlement Fund established pursuant to section 4;

(10) "Settlement Roll" means the final roll prepared and published in the Federal Register by the Secretary pursuant to section 5;

(11) "Short cases" means the cases entitled Jesse Short et al. v. United States, (Cl. Ct. No. 102-63); Charlene Ackley v. United States, (Cl. Ct. No. 460-78); Bret Aanstadt v. United States, (Cl. Ct. No. 146-8S5L); and Norman Giffen v. United States, (Cl. Ct. No. 746-85L);

(12) "Short plaintiffs" means named plaintiffs in the Short cases;

(13) "trust land" means an interest in land the title to which is held in trust by the United States for an Indian or Indian tribe, or by an Indian or Indian tribe subject to a restriction by the United States against alienation;

(14) "unallotted trust land, property, resources or rights" means those lands, property, resources, or rights reserved for Indian purposes which have not been allotted to individuals under an allotment Act;

(15) "Yurok Reservation" means the reservation described in section 2(c) of this Act; and

(16) "Yurok Tribe" means the Indian tribe which is recognized and authorized to be organized pursuant to section 9 of this Act.

SEC. 2. RESERVATIONS; PARTITION AND ADDITIONS.

(a) PARTITION OF THE JOINT RESERVATION.—(1) Effective with the publication in the Federal Register of the Hoopa tribal resolution as provided in paragraph (2), the joint reservation shall be partitioned as provided in subsections (b) and (c).

(2)(A) The partition of the joint reservation as provided in this paragraph, and the ratification and confirmation as provided by section 8, shall not become effective unless, within 60 days after the date of the enactment of this Act, the Hoopa Valley Tribe shall adopt, and transmit to the Secretary, a tribal resolution:

(i) waiving any claim such tribe may have against the United States arising out of the provisions of this Act, and

(ii) affirming tribal consent to the contribution of Hoopa Escrow monies to the Settlement Fund, and for their use as payments to the Yurok Tribe, and to individual Yuroks, as provided in this Act.

(B) The Secretary, after determining the validity of the resolution transmitted pursuant to subparagraph (A), shall cause such resolution to be printed in the Federal Register.

(b) HOOPA VALLEY RESERVATION.—Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "square" (defined as the

Hoopa Valley Reservation established under section 2 of the Act of April 8, 1864 (13 Stat. 40), the Executive Order of June 23, 1876, and Executive Order 1480 of February 17, 1912) shall thereafter be recognized and established as the Hoopa Valley Reservation. The unallotted trust land and assets of the Hoopa Valley Reservation shall thereafter be held in trust by the United States for the benefit of the Hoopa Valley Tribe.

(c) YUROK RESERVATION.—(1) Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "extension" (defined as the reservation extension under the Executive Order of October 16, 1891, but excluding the Resighini Rancheria) shall thereafter be recognized and established as the Yurok Reservation. The unallotted trust land and assets of the Yurok Reservation shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe.

(2) Subject to all valid existing rights and subject to the adoption of a resolution of the Interim Council of the Yurok Tribe as provided in section 9(d)(2), all right, title, and interest of the United States—

(A) to all national forest system lands within the Yurok Reservation, and

(B) to that portion of the Yurok Experimental Forest described as Township 14 N., Range 1 E., Section 28, Lot 6: that portion of Lot 6 east of U.S. Highway 101 and west of the Yurok Experimental Forest, comprising 14 acres more or less and including all permanent structures thereon, shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe and shall be part of the Yurok Reservation. Within six months after the date of enactment of this Act, the Secretary of the Interior shall submit a report to Congress concerning the advisability of conveying to the Yurok Tribe all right, title and interest of the United States to all National Park System lands within the Yurok Reservation. If the Secretary determines that such rights should not be immediately conveyed, his report shall include a proposed agreement for submission to the Interim Council of the Yurok Tribe that would assure tribal members of reasonable hunting, fishing and gathering rights and reasonable access to ceremonial and religious sites on such lands within the Yurok Reservation.

(3)(A) Pursuant to the authority of sections 5 and 7 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 465, 467), the Secretary may acquire lands or interests in land, including rights-of-way for access to trust lands, for the Yurok Tribe or its members, and such lands may be declared to be part of the Yurok Reservation.

(B) From amounts authorized to be appropriated by the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), the Secretary shall use not less than $5,000,000 for the purpose of acquiring lands or interests in lands pursuant to subparagraph (A). No lands or interests in lands may be acquired outside the Yurok Reservation with such funds except lands adjacent to and contiguous with the Yurok Reservation or for purposes of exchange for lands within the reservation.

(4) The—

(A) apportionment of funds to the Yurok Tribe as provided in sections 4 and 7;

(B) the land transfers pursuant to paragraph (2);

(C) the land acquisition authorities in paragraph (3); and

(D) the organizational authorities of section 9 shall not be effective unless and until the Interim Council of the Yurok Tribe has adopted a resolution waiving any claim such tribe may have against the United States arising out of the provisions of this Act.

(d) BOUNDARY CLARIFICATIONS OR CORRECTIONS.—(1) The boundary between the Hoopa Valley Reservation and the Yurok Reservation, after the partition of the joint reservation as provided in this section, shall be the line established by the Bissel-Smith survey.

(2) Upon the partition of the joint reservation as provided in this section, the Secretary shall publish a description of the boundaries of the Hoopa Valley Reservation and Yurok Reservations in the Federal Register.

(e) MANAGEMENT OF THE YUROK RESERVATION.—The Secretary shall be responsible for the management of the unallotted trust land and assets of the Yurok Reservation until such time as the Yurok Tribe has been organized pursuant to section 9. Thereafter, those lands and assets shall be administered as tribal trust land and the Yurok reservation governed by the Yurok Tribe as other reservations are governed by the tribes of those reservations.

(f) CRIMINAL AND CIVIL JURISDICTION.—The Hoopa Valley Reservation and Yurok Reservation shall be subject to section 1360 of title 28, United States Code; section 1162 of title 18, United States Code, and section 403(a) of the Act of April 11, 1968 (82 Stat. 79; 25 U.S.C. 1232(a)).

SEC. 3. PRESERVATION OF SHORT CASES.

Nothing in this Act shall affect, in any manner, the entitlement established under decisions of the United States Claims Court in the Short cases or any final judgment which may be rendered in those cases.

SEC. 4. HOOPA-YUROK SETTLEMENT FUND.

(a) ESTABLISHMENT.—(1) There is hereby established the Hoopa-Yurok Settlement Fund. Upon enactment of this Act, the Secretary shall cause all the funds in the Escrow funds, together with all accrued income thereon, to be deposited into the Settlement Fund.

(2) Until the distribution is made to the Hoopa Valley Tribe pursuant to section (c), the Secretary may distribute to the Hoopa Valley Tribe, pursuant to the provision of title I of the Department of the Interior and related Agencies Appropriations Act, 1985, under the heading "Bureau of Indian Affairs" and subheading "Tribal Trust Funds" at 98 Stat. 1849 (25 U.S.C. 123c), not to exceed $3,500,000 each fiscal year out of the income or principal of the Settlement Fund for tribal, non per capita purposes: *Provided, however,* That the Settlement Fund apportioned under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Hoopa Valley Tribe pursuant to subsection (c).

(3) Until the distribution is made to the Yurok Tribe pursuant to section (d), the Secretary may, in addition to providing Federal funding, distribute to the Yurok Transition Team, pursuant to provision of title I of the Department of the Interior and Related Agencies Appropriations Act, 1985, under the heading "Bureau of Indian Affairs" and subheading "tribal trust funds" at 98 Stat. 1849 (25 U.S.C. 123c), not to exceed $500,000 each fiscal year out of the income and principal of the Settlement Fund for tribal, non per capita purposes: *Provided, however,* That the Settlement Fund apportioned under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Yurok Tribe pursuant to subsection (d).

(b) DISTRIBUTION; INVESTMENT.—The Secretary shall make distribution from the Settlement Fund as provided in this Act and, pending payments under section 6 and dissolution of the fund as provided in section 7, shall invest and administer such fund as Indian trust funds pursuant to the first section of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a).

(c) HOOPA VALLEY TRIBE PORTION.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall immediately pay out of the Settlement Fund into a trust account for the benefit of the Hoopa Valley Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of enrolled members of the Hoopa Valley Tribe as of the date of the promulgation of the Settlement Roll, including any persons enrolled pursuant to section 6, by the sum of the number of such enrolled Hoopa Valley tribal members and the number of persons on the Settlement Roll.

(d) YUROK TRIBE PORTION.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall pay out of the Settlement Fund into a trust account for the benefit of the Yurok Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of persons on the Settlement Roll electing the Yurok Tribal Membership Option pursuant to section 6(c) by the sum of the number of the enrolled Hoopa Valley tribal members established pursuant to subsection (c) and the number of persons on the Settlement Roll, less any amount paid out of the Settlement Fund pursuant to section 6(c)(3).

(e) FEDERAL SHARE.—There is hereby authorized to be appropriated the sum of $10,000,000 which shall be deposited into the Settlement Fund after the payments are made pursuant to subsections (c) and (d) and section 6(c). The Settlement Fund, including the amount deposited pursuant to this subsection and all income earned subsequent to the payments made pursuant to subsections (c) and (d) and section 6(c), shall be available to make the payments authorized by section 6(d).

SEC. 5. HOOPA-YUROK SETTLEMENT ROLL.

(a) PREPARATION; ELIGIBILITY CRITERIA.—(1) The Secretary shall prepare a roll of all persons who can meet the criteria for eligibility as an Indian of the Reservation and—

(A) who were born on or prior to, and living upon, the date of enactment of this Act;

(B) who are citizens of the United States; and

(C) who were not, on August 8, 1988, enrolled members of the Hoopa Valley Tribe.

(2) The Secretary's determination of eligibility under this subsection shall be final except that any Short plaintiff determined by the United States Claims Court to be an Indian of the Reservation shall be included on the Settlement Roll if they meet the other requirements of this subsection and any Short plaintiff determined by the United States Claims Court not to be an Indian of the Reservation shall not be eligible for inclusion on such roll.

(b) RIGHT TO APPLY; NOTICE.—Within thirty days after the date of enactment of this Act, the Secretary shall give such notice of the right to apply for enrollment as provided in subsection (a) as he deems

reasonable except that such notice shall include, but shall not be limited to—

(1) actual notice by registered mail to every plaintiff in the Short cases at their last known address;

(2) notice to the attorneys for such plaintiffs; and

(3) publication in newspapers of general circulation in the vicinity of the Hoopa Valley Reservation and elsewhere in the State of California.

Contemporaneous with providing the notice required by this subsection, the Secretary shall publish such notice in the Federal Register.

(c) APPLICATION DEADLINE.—The deadline for application pursuant to this section shall be established at one hundred and twenty days after the publication of the notice by the Secretary in the Federal Register as required by subsection (b).

(d) ELIGIBILITY DETERMINATION; FINAL ROLL.—(1) The Secretary shall make determinations of eligibility of applicants under this section and publish in the Federal Register the final Settlement Roll of such persons one hundred and eighty days after the date established pursuant to subsection (c).

(2) The Secretary shall develop such procedures and times as may be necessary for the consideration of appeals from applicants not included on the roll published pursuant to paragraph (1). Successful appellants shall be added to the Settlement Roll and shall be afforded the right to elect options as provided in section 6, with any payments to be made to such successful appellants out of the remainder of the Settlement Fund after payments have been made pursuant to section 6(d) and prior to division pursuant to section 7.

(3) Persons added to the Settlement Roll pursuant to appeals under this subsection shall not be considered in the calculations made pursuant to section 4.

(e) EFFECT OF EXCLUSION FROM ROLL.—No person whose name is not included on the Settlement Roll shall have any interest in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Tribe, the Hoopa Valley Reservation, the Yurok Tribe, or the Yurok Reservation or in the Settlement Fund unless such person is subsequently enrolled in the Hoopa Valley Tribe or the Yurok Tribe under the membership criteria and ordinances of such tribes.

SEC. 6. ELECTION OF SETTLEMENT OPTIONS.

(a) NOTICE OF SETTLEMENT OPTIONS.—(1) Within sixty days after the publication of the Settlement Roll as provided in section 5(d), the Secretary shall give notice by certified mail to each person eighteen years or older on such roll of their right to elect one of the settlement options provided in this section.

(2) The notice shall be provided in easily understood language, but shall be as comprehensive as possible and shall provide an objective assessment of the advantages and disadvantages of each of the options offered. The notice shall also provide information about the counseling services which will be made available to inform individuals about the respective rights and benefits associated with each option presented under this section. It shall also clarify that an election of the Lump Sum Payment option requires the completion of a sworn affidavit certifying that the individual has been provided with complete information about the effects of such an election.

(3) With respect to minors on the Settlement Roll the notice shall state that minors shall be deemed to have elected the option of section 6(c), except that if the parent or guardian furnishes proof satisfactory to the Secretary that a minor is an enrolled member of a tribe that prohibits members from enrolling in other tribes, the parent or guardian shall make the election for such minor. A minor subject to the provisions of section 6(c) shall, notwithstanding any other law, be deemed to be a child of a member of an Indian tribe regardless of the option elected pursuant to this Act by the minor's parent. With respect to minors on the Settlement Roll whose parent or guardian is not also on the roll, notice shall be given to the parent or guardian of such minor. The funds to which such minors are entitled shall be held in trust by the Secretary until the minor reaches age 18. The Secretary shall notify and provide payment to such person including all interest accrued.

(4)(A) The notice shall also establish the date by which time the election of an option under this section must be made. The Secretary shall establish that date as the date which is one hundred and twenty days after the date of the publication in the Federal Register as required by section 5(d).

(B) Any person on the Settlement Roll who has not made an election by the date established pursuant to subparagraph (A) shall be deemed to have elected the option provided in subsection (c).

(b) HOOPA TRIBAL MEMBERSHIP OPTION.—(1) Any person on the Settlement Roll, eighteen years or older, who can meet any of the enrollment criteria of the Hoopa Valley Tribe set out in the decision of the United States Court of Claims in its March 31, 1982, decision in the Short case (No. 102-63) as "Schedule A", "Schedule B", or "Schedule C" and who—

(A) maintained a residence on the Hoopa Valley Reservation on the date of enactment of this Act;

(B) had maintained a residence on the Hoopa Valley Reservation at any time within the five year period prior to the enactment of this Act; or

(C) owns an interest in real property on the Hoopa Valley Reservation on the date of enactment of this Act, may elect to be, and, upon such election, shall be entitled to be, enrolled as a full member of the Hoopa Valley Tribe.

(2) Notwithstanding any provision of the constitution, ordinances or resolutions of the Hoopa Valley Tribe to the contrary, the Secretary shall cause any entitled person electing to be enrolled as a member of the Hoopa Valley Tribe to be so enrolled and such person shall thereafter be entitled to the same rights, benefits, and privileges as any other member of such tribe.

(3) The Secretary shall determine the quantum of "Indian blood" or "Hoopa Indian blood", if any, of each person enrolled in the Hoopa Valley Tribe under this subsection pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jessie Short et al. v. United States, (Cl. Ct. No. 102-63).

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Yurok Indian Reservation or the Yurok Tribe or in the Settlement Fund.

(c) YUROK TRIBAL MEMBERSHIP OPTION.—(1) Any person on the Settlement Roll may elect to become a member of the Yurok Tribe and shall be entitled to participate in the organization of such tribe as provided in section 9.

(2) All persons making an election under this subsection shall form the base roll of the Yurok Tribe for purposes of organization pursuant to section 9 and the Secretary shall determine the quantum of "Indian blood" if any pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jessie Short et al. v. United States, (Cl. Ct. No. 102-63).

(3) The Secretary, subject to the provisions of section 7 of the Act of October 19, 1973 (87 Stat. 466), as amended (25 U.S.C. 1407), shall pay to each person making an election under this subsection, $5,000 out of the Settlement Fund for those persons who are, on the date established pursuant to section 6(a)(4), below the age of 50 years, and $7,500 out of the Settlement Fund for those persons who are, on that date, age 50 or older.

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation or the Hoopa Valley Tribe or, except to the extent authorized by paragraph (3), in the Settlement Fund. Any such person shall also be deemed to have granted to members of the Interim Council established under section 9 an irrevocable proxy directing them to approve a proposed resolution waiving any claim the Yurok Tribe may have against the United States arising out of the provisions of this Act, and granting tribal consent as provided in section 9(d)(2).

(d) LUMP SUM PAYMENT OPTION.—(1) Any person on the Settlement Roll may elect to receive a lump sum payment from the Settlement Fund and the Secretary shall pay to each such person the amount of $15,000 out of the Settlement Fund: *Provided*, That such individual completes a sworn affidavit certifying that he or she has been afforded the opportunity to participate in counseling which the Secretary, in consultation with the Hoopa Tribal Council or Yurok Transition Team, shall provide. Such counseling shall provide a comprehensive explanation of the effects of such election on the individual making such election, and on the tribal enrollment rights of that persons children and descendants who would otherwise be eligible for membership in either the Hoopa or Yurok Tribe.

(2) The option to elect a lump sum payment under this section is provided solely as a mechanism to resolve the complex litigation and other special circumstances of the Hoopa Valley Reservation and the tribes of the reservation, and shall not be construed or treated as a precedent for any future legislation.

(3) Any person making an election to receive, and having received, a lump sum payment under this subsection shall not thereafter have any interest or right whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation, the Hoopa Valley Tribe, the Yurok Reservation, or the Yurok Tribe or, except authorized by paragraph (1), in the Settlement Fund.

SEC. 7. DIVISION OF SETTLEMENT FUND REMAINDER.

(a) Any funds remaining in the Settlement Fund after the payments authorized

to be made therefrom by subsections (c) and (d) of section 6 and any payments made to successful appellants pursuant to section 5(d) shall be paid to the Yurok Tribe and shall be held by the Secretary in trust for such tribe.

(b) Funds divided pursuant to this section and any funds apportioned to the Hoopa Valley Tribe and the Yurok Tribe pursuant to subsections (c) and (d) of section 4 shall not be distributed per capita to any individual before the date which is 10 years after the date on which the division is made under this section: *Provided, however,* That if the Hoopa Valley Business Council shall decide to do so it may distribute from the funds apportioned to it a per capita payment of $5,000 per member, pursuant to the Act of August 2, 1983 (25 U.S.C. 117a et seq.).

SEC. 8. HOOPA VALLEY TRIBE; CONFIRMATION OF STATUS.

The existing governing documents of the Hoopa Valley Tribe and the governing body established and elected thereunder, as heretofore recognized by the Secretary, are hereby ratified and confirmed.

SEC. 9. RECOGNITION AND ORGANIZATION OF THE YUROK TRIBE.

(a) YUROK TRIBE.—(1) Those persons on the Settlement Roll who made a valid election pursuant to subsection (c) of section 6 shall constitute the base membership roll for the Yurok Tribe whose status as an Indian tribe, subject to the adoption of the Interim Council resolution as required by subsection (d)(2), is hereby ratified and confirmed.

(2) The Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, is hereby made applicable to the Yurok Tribe and the tribe may organize under such Act as provided in this section.

(3) Within thirty (30) days after the enactment of this Act the Secretary, after consultation with the appropriate committees of Congress, shall appoint five (5) individuals who shall comprise the Yurok Transition Team which, pursuant to a budget approved by the Secretary, shall provide counseling, promote communication with potential members of the Yurok Tribe concerning the provisions of this Act, and shall study and investigate programs, resources, and facilities for consideration by the Interim Council. Any property acquired for or on behalf of the Yurok Transition Team shall be held in the name of the Yurok Tribe.

(b) INTERIM COUNCIL; ESTABLISHMENT.—There shall be established an Interim Council of the Yurok Tribe to be composed of five members. The Interim Council shall represent the Yurok Tribe in the implementation of provisions of this Act, including the organizational provisions of this section, and subject to subsection (d) shall be the governing body of the tribe until such time as a tribal council is elected under a constitution adopted pursuant to subsection (e).

(c) GENERAL COUNCIL; ELECTION OF INTERIM COUNCIL.—(1) Within 30 days after the date established pursuant to section 6(a)(4), the Secretary shall prepare a list of all persons eighteen years of age or older who have elected the Yurok Tribal Membership Option pursuant to section 6(c), which persons shall constitute the eligible voters of the Yurok Tribe for the purposes of this section, and shall provide written notice to such persons of the date, time, purpose, and order of procedure for the general council meeting to be scheduled pursuant to paragraph (2) for the consideration of the nomination of candidates for election to the Interim Council.

(2) Not earlier than 30 days before, nor later than 45 days after, the notice provided pursuant to paragraph (1), the Secretary shall convene a general council meeting of the eligible voters of the Yurok Tribe on or near the Yurok Reservation, to be conducted under such order of procedures as the Secretary determines appropriate, for the nomination of candidates for election of members of the Interim Council. No person shall be eligible for nomination who is not on the list prepared pursuant to this section.

(3) Within 45 days after the general council meeting held pursuant to paragraph (2), the Secretary shall hold an election by secret ballot, with absentee balloting and write-in voting to be permitted, to elect the five members of the Interim Council from among the nominations submitted to him from such general council meeting. The Secretary shall assure that notice of the time and place of such election shall be provided to eligible voters at least fifteen days before such election.

(4) The Secretary shall certify the results of such election and, as soon as possible, convene an organizational meeting of the newly-elected members of the Interim Council and shall provide such advice and assistance as may be necessary for such organization.

(5) Vacancies on the Interim Council shall be filled by a vote of the remaining members.

(d) INTERIM COUNCIL; AUTHORITIES AND DISSOLUTION.—(1) The Interim Council shall have no powers other than those given to it by this Act.

(2) The Interim Council shall have full authority to adopt a resolution—

(i) waiving any claim the Yurok Tribe may have against the United States arising out of the provision of this Act, and

(ii) affirming tribal consent to the contribution of Yurok Escrow monies to the Settlement Fund, and for their use as payments to the Hoopa Tribe, and to individual Hoopa members, as provided in this Act, and

(iii) to receive grants from, and enter into contracts for, Federal programs, including those administered by the Secretary and the Secretary of Health and Human Services, with respect to Federal services and benefits for the tribe and its members.

(3) The Interim Council shall have such other powers, authorities, functions, and responsibilities as the Secretary may recognize, except that any contract or legal obligation that would bind the Yurok Tribe for a period in excess of two years from the date of the certification of the election by the Secretary shall be subject to disapproval and cancellation by the Secretary if the Secretary determines that such a contract or legal obligation is unnecessary to improve housing conditions of members of the Yurok Tribe, or to obtain other rights, privileges or benefits that are in the long-term interest of the Yurok Tribe.

(4) The Interim Council shall appoint, as soon as practical, a drafting committee which shall be responsible, in consultation with the Interim Council, the Secretary and members of the tribe, for the preparation of a draft constitution for submission to the Secretary pursuant to subsection (e).

(5) The Interim Council shall be dissolved effective with the election and installation of the initial tribe governing body elected pursuant to the constitution adopted under subsection (e) or at the end of two years after such installation, whichever occurs first.

(e) ORGANIZATION OF YUROK TRIBE.—Upon written request of the Interim Council or the drafting committee and the submission of a draft constitution as provided in paragraph (4) of subsection (d), the Secretary shall conduct an election, pursuant to the provisions of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 461 et seq.) and rules and regulations promulgated thereunder, for the adoption of such constitution and, working with the Interim Council, the election of the initial tribal governing body upon the adoption of such constitution.

SEC. 10. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC SELF-SUFFICIENCY.—The Secretary shall—

(1) enter into negotiations with the Yurok Transition Team and the Interim Council of the Yurok Tribe with respect to establishing a plan for economic development for the tribe;

(2) in accordance with this section and not later than two years after the date of enactment of this Act, develop such a plan; and

(3) upon the approval of such plan by the Interim Council or tribal governing body (and after consultation with the State and local officials pursuant to subsection (b) of this section), the Secretary shall submit such plan to the Congress.

(b) CONSULTATION WITH STATE AND LOCAL OFFICIALS REQUIRED.—To assure that legitimate State and local interests are not prejudiced by the proposed economic self-sufficiency plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions on such proposed plan imposed by subsection (c) of this section. During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) RESTRICTIONS TO BE CONTAINED IN PLAN.—Any plan developed by the Secretary under subsection (a) of this section shall provide that—

(1) any real property transferred by the tribe or any member of the Secretary shall be taken and held in the name of the United States for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax; and

(B) foreclosure or sale in accordance with the laws of the State pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) APPENDIX TO PLAN SUBMITTED TO THE CONGRESS.—The Secretary shall append to the plan submitted to the Congress under subsection (a) of this section a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b) of this section;

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

SEC. 11. SPECIAL CONSIDERATIONS.

(a) ESTATE FOR SMOKERS FAMILY.—The 20 acre land assignment on the Hoopa Valley Reservation made by the Hoopa Area Field Office of the Bureau of Indian Affairs on August 25, 1947, to the Smokers family shall continue in effect and may pass by descent or devise to any blood relative or relatives of one-fourth or more Indian blood of those family members domiciled on the assignment on the date of enactment of this Act.

(b) RANCHERIA MERGER WITH YUROK TRIBE.—If a majority of the adult members of any of the following Rancherias at the Resighini, Trinidad, or Big Lagoon, vote to merge with the Yurok Tribe in an election which shall be conducted by the Secretary within ninety days after the date of enactment of this Act, the tribes and reservations of those rancherias so voting shall be extinguished and the lands and members of such reservations shall be part of the Yurok Reservation with the unallotted trust land therein held in trust by the United States for the Yurok Tribe: *Provided, however,* That the existing governing documents and the elected governing bodies of any rancherias voting to merge shall continue in effect until the election of the Interim Council pursuant to section 9. The Secretary shall publish in the Federal Register a notice of the effective date of the merger.

(c) PRESERVATION OF LEASEHOLD AND ASSIGNMENT RIGHTS OF RANCHERIA RESIDENTS.—Real property on any rancheria that merges with the Yurok Reservation pursuant to subsection (b) that is, on the date of enactment of this Act, held by any individual under a lease shall continue to be governed by the terms of the lease, and any land assignment existing on the date of the enactment of this Act shall continue in effect and may pass by descent or devise to any blood relative or relatives of Indian blood of the assignee.

SEC. 12. KLAMATH RIVER BASIN FISHERIES TASK FORCE.

(a) IN GENERAL.—Section 4(c) of the Act entitled "An Act to provide for the restoration of the fishery resources in the Klamath River Basin, and for other purposes" (16 U.S.C. 460ss-3) is amended—

(A) in the matter preceding paragraph (1), by striking out "12" and inserting in lieu thereof "14"; and

(B) by inserting at the end thereof the following new paragraphs:

"(11) A representative of the Karuk Tribe, who shall be appointed by the governing body of the Tribe,

"(12) A representative of the Yurok Tribe, who shall be appointed by the Secretary until such time as the Yurok Tribe is organized upon which time the Yurok Tribe shall appoint such representative beginning with the first appointment ordinarily occurring after the Yurok Tribe is organized".

(b) SPECIAL RULE.—The initial term of the representative appointed pursuant to section 4(c) (11) and (12) of such Act (as added by the amendment made by subsection (a) shall be for that time which is the remainder of the terms of the members of the Task Force then serving. Thereafter, the term of such representatives shall be as provided in section 4(e) of such Act.

SEC. 13. TRIBAL TIMBER SALES PROCEEDS USE.

Section 7 of the Act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 407) is amended to read as follows:

"SEC. 7. Under regulations prescribed by the Secretary of the Interior, the timber on unallotted trust land in Indian reservations or on other land held in trust for tribes may be sold in accordance with the principles of sustained-yield management or to convert the land to a more desirable use. After deduction, if any, for administrative expenses under the Act of February 14, 1920 (41 Stat. 415; 25 U.S.C. 413), the proceeds of the sale shall be used—

"(1) as determined by the governing bodies of the tribes concerned and approved by the Secretary, or

"(2) in the absence of such a governing body, as determined by the Secretary for the tribe concerned.

SEC. 14. LIMITATIONS OF ACTIONS; WAIVER OF CLAIMS.

(a) Any claim challenging the partition of the joint reservation pursuant to section 2 or any other provision of this Act as having effected a taking under the fifth amendment of the United States Constitution or as otherwise having provided inadequate compensation shall be brought, pursuant to 28 U.S.C. 1491 or 28 U.S.C. 1505, in the United States Claims Court.

(b)(1) Any such claim by any person or entity, other than the Hoopa Valley Tribe or the Yurok Tribe, shall be forever barred if not brought within the later of 210 days from the date of the partition of the joint reservation as provided in section 2 or 120 days after the publication in the Federal Register of the option election date as required by section 6(a)(4).

(2) Any such claim by the Hoopa Valley Tribe shall be barred 180 days after the date of enactment of this Act or such earlier date as may be established by the adoption of a resolution waiving such claims pursuant to section 2(a)(2).

(3) Any such claim by the Yurok Tribe shall be barred 180 days after the general council meeting of the Yurok Tribe as provided in section 9 or such earlier date as may be established by the adoption of a resolution waiving such claims as provided in section 9(d)(2).

(c)(1) The Secretary shall prepare and submit to the Congress a report describing the final decision in any claim brought pursuant to subsection (b) against the United States or its officers, agencies, or instrumentalities.

(2) Such report shall be submitted no later than 180 days after the entry of final judgment in such litigation. The report shall include any recommendations of the Secretary for action by Congress, including, but not limited to, any supplemental funding proposals necessary to implement the terms of this Act and any modifications to the resource and management authorities established by this Act. Notwithstanding the provisions of 28 U.S.C. 2517, any judgment entered against the United States shall not be paid for 180 days after the entry of judgment; and, if the Secretary of the Interior submits a report to Congress pursuant to this section, then payment shall be made no earlier than 120 days after submission of the report.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am happy to bring this legislation before the House for consideration.

This legislation settles a long-standing dispute to the lands and resources of the Hoopa Valley Indian Reservation of northern California.

The Interior Committee had a thorough hearing on this matter and considerable debate during committee markup.

In settling this Indian land dispute, the bill will prevent the practical termination of the Hoopa Indian Tribe and will permit the Yurok Indian Tribe, now an empty shell, to come into being.

Mr. Speaker, one provision of the bill, relating to the Klamath River Fisheries Task Force, falls within the jurisdiction of the Merchant Marine and Fisheries Committee. Chairman JONES of that committee has kindly deferred to our committee on this matter with the request that we recognize their jurisdiction over that matter. I would like to thank him for his cooperation and understanding.

Mr. Bosco, the sponsor of the legislation, will speak in more detail on this bill. I would like to commend him for his very hard work on this important bill.

Mr. Speaker, I strongly urge passage of this bill.

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Mr. Speaker, I yield 3 minutes to the sponsor of this legislation, the gentleman from California [Mr. Bosco]. He has been deeply involved with this complicated matter.

Mr. BOSCO. Mr. Speaker, the legislation before us will divide the Hoopa Valley Reservation in northern California into two reservations—one for the use of the Hoopa Tribe, which has existed in its present homeland for centuries, the other for the Yurok Tribe, should they decide to organize. The legislation provides for the payment of moneys owed by the United States as the result of timber sales on the reservation. Some of these funds will go to individuals and some to the tribes. Provisions are made for tribal organization and for election on the part of individuals as to which tribes, if any, they want to join.

Mr. Speaker, I will not detail the saga that has brought us to the House floor today. Before the 1950's the Hoopas and Yuroks lived amicably, though for the most part separately along the banks of the Trinity and Klamath Rivers in some of the most remote and beautiful territory in northern California. As the Hoopa Tribe began to take advantage of a booming timber market, however, a dispute arose over the distribution of revenues from timber sales. This dispute turned the people against each other. It brought them to the courtrooms of Eureka, San Francisco, and the U.S. Supreme Court in a legal battle that has lasted some 25 years.

Sadly, these people are some of the poorest in our country, suffering unemployment rates of over 60 percent. The money and energy expended on this protracted legal battle could better have been spent to strengthen these tribes and build the schools, health facilities, roads and other improvements needed by these people.

The legislation recognizes that some Yurok Indians prefer to live in an organized community and others would simply want to receive funds held in trust for the tribes. This legislation will make funds available to the organized tribes and to individuals who heretofore would not be entitled to a distribution of such funds.

The legislation before us deprives no one of benefits previously won in court. It will allow many to receive benefits they otherwise would not have received as individuals. It returns to these Indians land that was their ancestral home, and lays the groundwork for strong, healthy tribal communities. Each tribe will have sufficient financial resources to succeed, and each will be able to govern.

Mr. Speaker, section 2(c)(3) of the bill authorizes the Secretary to acquire for the Yurok Tribe lands or interests in land, including rights of way. Some lands within the reservation boundaries created by this Act are owned by private parties. As chief sponsor of the bill, it is my intention that any such acquisition from private parties occur only through voluntary negotiations and agreement with the private owners. No condemnation, power of eminent domain or other involuntary process should be used to acquire any lands, rights of way or other interests in land. This is consistent with the Indian Reorganization Act of 1934, which is referenced in section 2(c)(3) and which does not provide for involuntary taking from private parties.

This legislation will improve the lives, present and future, of thousands of people. I thank Chairman UDALL, his outstanding staff, especially Frank Ducheneaux, and Congressman RICHARD LEHMAN for their hard work on ths measure.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2723.

Passage of this legislation is necessary to resolve a longstanding Indian law dispute in northern California. There is opposition to the bill. The gentleman from California [Mr. PASHAYAN] has worked hard to protect the rights of those who are opposed to the passage of this legislation.

No settlement of a dispute such as this can satisfy all parties to the dispute. At the same time, the first steps must be taken to resolve these disputes to prevent them from festering through litigation year after year. These first steps may not be perfect—and may require corrections later—yet we should not hesitate to take the necessary steps when the opportunity is available.

I understand the concerns over this legislation. Land is in short supply in this part of California and the rights of many individual Indians are affected by this bill. However, I have become convinced that we should move forward with the legislation now and begin to resolve the legal issues that have been left unresolved for so many years.

I support this legislation and urge my colleagues to do the same.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I rise in support of S. 2723, the Hoopa-Yurok Settlement Act.

This legislation will partition the current Hoopa Valley Indian Reservation into two reservation—one for the Hoopa Valley Tribe and one for the soon to be organized Yurok Indian Tribe. This will resolve pending litigation for whose benefit this reservation was made, and leave in force our traditional political government-to-government relationship with Indian tribes.

The administration supports the concept of this bill, and I urge my colleagues to support S. 2723.

Mr. JONES of North Carolina. Mr. Speaker, I rise today with regard to S. 2723, a bill to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians. The companion bill, H.R. 4469, introduced by Congressman BOSCO, was jointly referred to the Committee on Merchant Marine and Fisheries because of a provision dealing with the Klamath River Basin Fisheries Task Force.

As introduced, H.R. 4469 added a representative of the newly organized Yurok Tribe to the task force. The Committee on Interior and Insular Affairs amended the bill and added another member to the task force—a representative of the Karuk Tribe.

I agree to waive further consideration of H.R. 4469 by my committee in deference to a request from Congressman BOSCO, a valued member of my committee, and Chairman UDALL. However, I would like to raise one caveat regarding my support for this bill and the addition of two new members to the Klamath River Basin Fisheries Task Force.

The Klamath River Basin Fisheries Task Force was established under the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460SS-3(c)). The task force advises the Secretary of the Interior in formulating, coordinating, and implementing the Klamath River Basin Conservation Area Restoration Program (16 U.S.C. 460SS-1(b)). At present, the task force is comprised of 12 members, including representatives of the commercial salmon fishing industry, the in-river sport fishing community, the Hoopa Indian Tribe, and various local, State, and Federal governmental agencies.

Our concern is that the addition of these two new members not be seen as setting a precedent that might lead to further expansion of this task force. In order for the task force to accomplish its goals and work efficiently, membership must be kept at a manageable number. Although we are willing to acquiesce to Congressman BOSCO's desires in this case, future additions to the task force will be stringently reviewed by the Committee on Merchant Marine and Fisheries. A compelling reason will be needed to justify further increases in membership.

The ability to influence the use of land and water is essential to an effective fishery habitat restoration effort. Membership on the task force has in the past been limited in large measure to entities with land management authority over extensive areas within the basin. The addition of the Yurok Tribe to the task force is consistent with this general criterion since they will exercise the necessary control within the new Yurok Reservation. The Karuk Tribe is lawfully organized and recognized by the Secretary of the Interior, but it does not have jurisdiction over any extensive land or water areas within the Klamath River Basin. Nevertheless, I understand that the Karuk Tribe has a strong interest in the restoration and conservation of fishery resources in the Klamath River Basin as demonstrated by tribal involvement in fishery management efforts over the past 8 years.

The Karuk Tribe has traditionally conducted a small dip net fishery on the Klamath River near Orleans, CA. As this fishery is an important element of the tribe's identity, they became increasingly concerned over declines in Klamath River salmon runs during the past 10 to 15 years. In response, the tribe initiated a cooperative fish rearing project in 1980 and has grown salmon fingerlings provided by the State of California in five small ponds along the river to supplement natural production. Because of this strong interest and self-generated involvement in fishery restoration efforts, it is both appropriate and desirable in this situation to make an exception to the general rule that the Klamath River Basin Fisheries Task Force consist primarily of entities with substantial land and water management authority and responsibilities. This should not be viewed, however, as a precedent for future expansion of the task force.

Having stated this one reservation, I would urge my colleagues to support the passage of S. 2723.

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Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the Senate bill, S. 2723.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, the bill we have just ordered a vote on did not appear on the schedule for suspensions for the day. I understand there may be some, a couple more, coming up that were also not on the schedule. I am just curious how these are getting put on the schedule here at the last minute. It is hard enough for the Members to follow what we are doing without a program. If we are going to change the program, that makes it difficult.

Do we have any assurance that the Members are going to know about these bills in advance before they come rolling onto the floor?

The SPEAKER pro tempore. The Chair would state to the gentleman's parliamentary inquiry that there is no requirement that bills that are called up are on the calendar. That is a courtesy offered Memers to let them know what is on the program, but the Chair has the full right of recognition and the leadership schedules the bills. Of course, the present occupant of the Chair can only bring up what the chairman propounds to be brought up to suspend the rules, and each Member is protected by virtue of the fact that they can always object to the votes on the grounds that a quorum is not present, which the gentleman from Pennsylvania has been doing very well here this evening.

I hope that answers the gentleman's inquiry.

Mr. WALKER. Mr. Speaker, do I understand then correctly, in other words, the Suspension Calendars, and I understand we may have a rule to expand them, are kind of limitless then, and the Members may not know at all what is coming up on these calendars? Is that what the Chair is telling me?

The SPEAKER pro tempore. The Chair will state to the distinguished gentleman from Pennsylvania that he raises a good point. We are here in the last days of the session. The leadership is always under pressure from both sides of the aisle to get legislation scheduled. We are all doing the best we can to accommodate the requests of the various committee chairmen and the various Members. That is where we are now.

Mr. WALKER. Mr. Speaker, I thank the Chair.

NUCLEAR WASTE POLICY ACT AMENDMENTS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2800) to amend the Nuclear Waste Policy Act of 1982 with respect to the Office of the Nuclear Waste Negotiator and the Monitored Retrievable Storage Commission.

The Clerk read as follows:

S. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NUCLEAR WASTE NEGOTIATOR.

Section 402(a) of the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"SEC. 402. (a) ESTABLISHMENT.—There is established the Office of the Nuclear Waste Negotiator that shall be an independent establishment in the executive branch.".

SEC. 2. MONITORED RETRIEVABLE STORAGE COMMISSION.

Section 143(a)(3) of the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress on November 1, 1989.".

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2800, the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a refreshingly simple bill. It makes two minor changes to the Nuclear Waste Policy Act of 1982. Section 1 removes the Office of the Nuclear Waste Negotiator from the Executive Office of the President. Section 2 gives the Monitored Retrievable Storage Commission 5 more months to complete its report to Congress.

Mr. Speaker, I'm sure all Members recall the sorry state of the nuclear waste program just 1 year ago. People were up in arms in every State in which the Department of Energy looked for a site for the nuclear waste repository. The public and many of us here in Congress had lost faith in the technical integrity of the site selection process. The program was in ruins.

To deal with this situation, last December, we enacted a major revision of the Nuclear Waste Policy Act. For better or for worse, we ended the Department of Energy's consideration of sites in Washington, Texas, and several Eastern States and told the Department to focus its attention on a site in Nevada. In addition, we directed the President to appoint a special negotiator to find a State willing to host the waste repository. We gave the negotiator authority to negotiate a benefits package and work out the terms and conditions under which Nevada or some other State would be willing to host the repository. The negotiator would then present this package to the Congress for consideration.

The negotiator was an essential part of the compromise legislation and enjoyed strong support on both sides of the aisle and both sides of the Hill. It offered a real opportunity to cut through the controversy, litigation, and political turmoil that has beset the nuclear waste program.

Today, more than 9 months after the President signed the nuclear waste amendments into law, he still hasn't appointed a negotiator. The problem seems to be that the law made the negotiator part of the Executive Office of the President. Apparently, the administration does not want the negotiator—with all the controversy the nuclear waste issue brings—tied too closely to the President.

S. 2800 simply takes the negotiator out of the Executive Office of the President and makes the negotiator an independent establishment within the executive branch. This should in no way compromise the stature or independence of the negotiator, but it will remove the last remaining obstacle to the appointment of the negotiator.

Mr. Speaker, a second major issue confronting us last year was whether or not to authorize construction of a monitored retrievable storage [MRS] facility. This was a hotly contested issue that was finally resolved by having the Speaker and the President pro tempore of the Senate appoint a three-member MRS Commission to reexamine the need for an MRS and

give Congress the benefit of its expert advice within 18 months.

The problem is that, for reasons beyond anyone's control, the MRS Commission was not sworn in for nearly 6 months after the nuclear waste amendments were enacted, leaving the Commission too little time to conduct its examination and prepare its report before the June 1, 1989, deadline. Accordingly, S. 2800 extends the deadline for filing the Commission's report by 5 months, to November 1, 1989.

Mr. Speaker, the two amendments to the Nuclear Waste Policy Act made by this bill are very minor. Nonetheless, they are quite important to the successful implementation of our nuclear waste program. I urge the bill's adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2800.

This legislation would make necessary changes in the Nuclear Waste Policy Act. First, the bill would remove the Office of the Nuclear Waste Negotiator from the Office of the President.

Second, the bill would allow the Commission on the MRS facility an additional period of 5 months to complete its report to Congress. This report is important and I believe the Commission should be allowed the additional time it has requested to complete its mission.

Mr. Speaker, I know of no objection to this legislation and urge my colleagues to vote in favor of it.

Mr. SHARP. Mr. Speaker, I am pleased to speak in favor of S. 2800, a bill to improve the Implementation of the Nuclear Waste Policy Act.

This bill makes two minor but necessary changes to the legislation amending the Nuclear Waste Policy Act which was included in last December's continuing resolution. These changes can fairly be described as housekeeping matters which do not alter the substance of that important and controversial legislation. Although a similar bill was referred to the Energy and Commerce Committee and reported by the Interior Committee, the Commerce Committee agreed to take up the Senate bill in order to ensure passage of the legislation this year.

First, S. 2800 redesignates the Office of the Nuclear Waste Negotiator as an independent establishment within the executive branch, rather than including it within the Executive Office of the President as it currently is constituted. This provision is identical to the provisions of H.R. 4689, which was introduced by Chairman UDALL and has been reported by the House Interior Committee. It addresses concerns expressed by the administration, and I understand it is supported by the Nevada delegation.

Second, S. 2800 extends the term of the Monitored Retrievable Storage Commission from June 1, 1989, to November 1, 1989. This 5-month extension is necessary to compensate for a delay of several months in the appointment of the Commissioners, and ensures that the Commission will have the time Congress intended it to have to prepare its report to Congress.

I commend the Senate for producing a bill we all can support, and thank Chairman DINGELL for his assistance in moving the bill swiftly in the House. I also would like to thank Chairman UDALL for his continued leadership in getting the nuclear waste program back on track and, in particular, for spearheading the concept of a nuclear waste negotiator.

I urge my colleagues to support this bill.

Mr. MOORHEAD. Mr. Speaker, I rise in support of this bill.

This legislation grows out of the Nuclear Waste Policy Act Amendments of 1987. That bill made several significant changes to our high level nuclear waste program, with a view toward identifying a suitable site for such waste in the near future.

S. 2800 makes two minor amendments to last year's legislation. It moves the Office of Nuclear Waste Negotiator out of the Executive Office of the President, and establishes it as an independent office within the executive branch. Second, S. 2800 extends the deadline for the issuance by a final report by the Monitored Retrievable Storage Commission.

I believe these changes are in the best interests of the nuclear waste repository program, and I urge my colleagues to support them.

I wish to thank PHIL SHARP, chairman of the Energy and Power Subcommittee for his assistance in moving this bill forward.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the Senate bill, S. 2800.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

NAVAJO AND HOPI INDIAN RELOCATION AMENDMENTS OF 1988

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1236) to reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes as amended.

The Clerk read as follows:

S. 1236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Navajo and Hopi Indian Relocation Amendments of 1988".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Subsection (a) of section 25 of Public Law 93-531 (25 U.S.C. 640d-24(a)) is amended-

(1) by striking out "$7,7,000,000" in paragraph (4) and inserting in lieu thereof "$13,000,000", and

(2) by striking out "$15,000,000 annually for fiscal years 1983 through 1987" in paragraph (8) and inserting in lieu thereof "$30,000,000 annually for fiscal years 1989, 1990, and 1991".

USE OF DISCRETIONARY FUNDS

SEC. 3. Subsection (b) of section 27 of Public Law 93-531 (25 U.S.C. 640d-25) is amended to read as follows:

"(b) Funds appropriated under the authority of subsection (a) may be used by the Commissioner for grants, contracts, or expenditures which significantly assist the Commissioner or assist the Navajo Tribe or Hopi Tribe in meeting the burdens imposed by this Act.".

COMMISSIONER ON NAVAJO AND HOPI INDIAN RELOCATION

SEC. 4. (a) Section 12 of Public Law 93-531 (25 U.S.C. 640d-11) is amended to read as follows:

"(a) There is hereby established as an independent entity in the executive branch the Office of Navajo and Hopi Indian Relocation which shall be under the direction of the Commissioner on Navajo and Hopi Relocation (hereinafter in this Act referred to as the 'Commissioner').

"(b)(1) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

"(2) The term of office of the Commissioner shall be 2 years. An individual may be appointed Commissioner for more than one term.

"(3) The Commissioner shall be a full time employee of the United States and shall be paid at the rate of GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(c)(1)(A) Except as otherwise provided by the Navajo and Hopi Relocation Amendments of 1988, the Commissioner shall have all the powers and be responsible for all the duties that the Navajo and Hopi Relocation Commission had before the enactment of such amendments.

"(B) All funds appropriated to the Navajo and Hopi Relocation Commission before the date on which the first Commissioner on Navajo and Hopi Relocation is confirmed by the Senate that have not been expended on such date shall become available to the Officer of the Navajo and Hopi Relocation on such date and shall remain available without fiscal year limitation.

"(2) There are hereby transferred to the Commissioner, on January 31, 1989—

"(A) all powers and duties of the Bureau of Indian Affairs derived from Public Law 99-190 (99 Stat. at 1236) that relate to the relocation of members of the Navajo Tribe from lands partitioned to the Hopi Tribe, and

"(B) all funds appropriated for activities relating to such relocation pursuant to P.L. 99-190 (99 Stat. at 1236): *Provided*, That such funds shall be used by the Commissioner for the purpose for which such funds were appropriated to the Bureau of Indian Affairs.

"(d)(1) The Commissioner shall have the power to—

"(A) appoint and fix the compensation of such staff and personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

"(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

"(2) The authority of the Commissioner to enter into contracts for the provision of legal services for the Commissioner or for the Office of Navajo and Hopi Indian Relocation shall be subject to the availability of funds provided for such purposes by appropriations Acts.

"(3) There are authorized to be appropriated for each fiscal year $100,000 to fund contracts described in paragraph (2).0

"(e)(1) The Commissioner is authorized to provide for the administrative, fiscal, and housekeeping services of the Office of Navajo and Hopi Indian Relocation and is authorized to call upon any department or agency of the United States to assist him in implementing the relocation plan, except that the control over and responsibility for completing relocation shall remain in the Commissioner. In any case in which the Office calls upon any such department or agency for assistance under this section, such department or agency shall provide reasonable assistance so requested.

"(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commissioner shall report such failure to the Congress.

"(f) The Office of Navajo and Hopi Indian Relocation shall cease to exist when the President determines that its functions have been fully discharged.".

(b) Public Law 93-531 is amended by striking out "the Commission" each place it appears and inserting in lieu thereof "the Commissioner".

(c)(1) Notwithstanding any other provisions of law or any amendment made by this Act—

(A) the Navajo and Hopi Indian Relocation Commission shall—

(i) continue to exist until the date on which the first Commissioner is confirmed by the Senate,

(ii) have the same structure, powers and responsibilities such Commission had before the enactment of this Act, and

(iii) assume responsibility for the powers and duties transferred to such Commissioner under section 12(c)(2) of Public Law 93-531, as amended by this Act, until the Commissioner is confirmed.

(B) the existing Commissioners shall serve until the new Commissioner is confirmed by the Senate, and

(C) the existing personnel of the Commission shall be transferred to the new Office of Navajo and Hopi Indian Relocation.

(2) The Navajo and Hopi Relocation Commission shall become known as the Office of Navajo and Hopi Indian Relocation on the date on which the first Commissioner is confirmed by the Senate.

(d) Section 13 of Public Law 93-531 (25 U.S.C. 640d-12) is amended to read as follows:

"(a) By no later than the date that is 6 months after the date on which the first Commissioner is confirmed by the Senate, the Commissioner shall prepare and submit to the Congress a report concerning the relocation of households and members thereof of each tribe and their personal property, including livestock, from lands partitioned to the other tribe pursuant to this Act.

"(b) The report required under subsection (a) shall contain, among other matters, the following:

"(1) the names of all members of the Navajo Tribe who reside within the areas partitioned to the Hopi Tribe and the names of all members of the Hopi Tribe who reside within the areas partitioned to the Navajo Tribe;

"(2) the names of all members of the Navajo Tribe, and other members of the Hopi Tribe, who are eligible for benefits provided under this Act and who have not received all the benefits for which such members are eligible under this Act;

"(3) the fair market value of the habitations and improvements owned by the head of households identified by the Commissioner as being among the persons named in clause (1) of this subsection; and

"(4) a report on how funds in the Navajo Rehabilitation Trust Funds will be expended to carry out the purposes described in section 32(d)."

LOBBYING

SEC. 5. Public Law 93-531 is amended by adding at the end thereof the following new section:

"SEC. 31. (a) Except as provided in subsection (b), no person or entity who has entered into a contract with the Commissioner to provide services under this Act may engage in activities designed to influence Federal legislation on any issue relating to the relocation required under this Act.

"(b) Subsection (a) shall not apply to the Navajo tribe or the Hopi tribe, except that such tribes shall not spend any funds received from the Office in any activities designed to influence Federal legislation."

NEW DEVELOPMENT ON CERTAIN LANDS

SEC. 6. Subsection (f) of section 10 of Public Law 93-531 (25 U.S.C. 640d-9(f)) is ameended—

(1) by striking out "Any development" and inserting in lieu thereof "(1) Any development", and

(2) by adding at the end thereof the following new paragraphs:

"(2) Each Indian tribe which receives a written request for the consent of the Indian tribe to a particular improvement, construction, or other develpment on the lands to which paragraph (1) applies shall respond in writing to such request by no later than the date that is 30 days after the date on which the Indian tribe receives the request. If the Indian tribe refuse to consent to the improvement, construction, or other development, the response shall include the reasons why consent is being refused.

"(3)(A) Paragraph (1) shall not apply to any improvement, construction, or other development if—

"(i) such improvement, construction, or development does not involve new housing construction, and

"(ii) after the Navajo Tribe or Hopi Tribe has refused to consent to such improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary of the Interior determines that such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either tribe.

"(B) If a written request for a determination described in subpararaph (A)(ii) is submitted to the Secretary of the Interior after the Navajo Tribe or Hopi Tribe has refused to consent to any improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary shall, no later than the date that is 45 days after the date on which such request is submitted to the Secretary, detemine whether such improvement, construction, or develpment is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either tribe.

"(C) Any development that is undertaken pursuant to this section shall be without prejudice to the rights of the parties in the civil action pending before the United States District Court for the District of Arizona commenced pursuant to section 8 of this Act, as amended.".

NAVAJO REHABILITATION TRUST FUND

SEC. 7. Public Law 93-531 is amended by adding at the end thereof the following new section:

"SEC. 32. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the 'Navajo Rehabilitation Trust Fund', which shall consist of the funds transferred under subsection (b) and of the funds appropriated pursuant to subsection (f) and any interest or investment income accrued on such funds.

"(b) All of the net income derived by the Navajo Tribe from the surface and mineral estates of lands located in New Mexico that are acquired for the benefit of the Navajo Tribe under section 11 shall be deposited into the Navajo Rehabilitation Trust Fund.

"(c) The Secretary shall be the trustee of the Navajo Rehabilitation Trust Fund and shall be responsible for investment of the funds in such Trust Fund.

"(d) Funds in the Navajo Rehabilitation Trust Fund, including any interest or investment accruing thereon, shall be available to the Navajo Tribe, with the approval of the Secretary, solely for purposes which will contribute to the continuing rehabilitation and improvement of the economic, educational, and social condition of families, and Navajo communities, that have been affected by—

"(1) the decision in the Healing case, or related proceedings,

"(2) the provision of this Act, or

"(3) the establishment by the Secretary of the Interior of grazing district number 6 as land for the exclusive use of the Hopi Tribe.

"(e) The Navajo Rehabilitation Trust Fund shall terminate when, upon petition by the Navajo Tribe, the Secretary determines that the goals of the Trust Fund have been met and the United States has been reimbursed for funds appropriated under subsection (f). All funds in the Trust Fund on such date shall be transferred to the general trust funds of the Navajo Tribe.

"(f) There is hereby authorized to be appropriated for the Navajo Rehabilitation Trust Fund not to exceed $10,000,000 in each of fiscal years 1990, 1991, 1992, 1993, 1994 and 1995. The income from the land re-

ferred to in subsection (b) of this section shall be used to reimburse the General Fund of the United States Treasury for amounts appropriated to the Fund.".

LANDS TRANSFERRED OR ACQUIRED FOR THE NAVAJO TRIBE

SEC. 8. Subsection (h) of section 11 of Public Law 93-531 (25 U.S.C. 640d-10(h)) is amended by striking out "the date of this subsection who are awaiting relocation under this Act" and inserting in lieu thereof "the date of enactment of this Act: *Provided*, That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this Act shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this Act".

PROVISION OF ATTORNEY FEES FOR THE SAN JUAN SOUTHERN PAIUTE TRIBE

SEC. 9. (a) Subsection (e) of section 8 of Public Law 93-531 (25 U.S.C. 640d-7 (e)) is amended by inserting a comma and the words "San Juan Southern Paiute" after the word "Navajo".

(b) Section 8 of Public Law 93-531 is amended by adding at the end thereof the following new subsection:

"(f)(1) Any funds made available for the San Juan Southern Paiute Tribe to pay for attorney's fees shall be paid directly to the tribe's attorneys of record until such tribe is acknowledged as an Indian tribe by the United States: *Provided*, That the tribe's eligibility for such payments shall cease once a decision by the Secretary of the Interior declining to acknowledge such tribe becomes final and no longer appealable.

"(2) Nothing in this subsection shall be interpreted as a Congressional acknowledgement of the San Juan Southern Paiute as an Indian tribe or as affecting in any way the San Juan Southern Paiute Tribe's Petition for Recognition currently pending with the Secretary of the Interior.

"(3) There is hereby authorized to be appropriated not to exceed $250,000 to pay for the legal expenses incurred by the Southern Paiute Tribe on legal action arising under this section prior to enactment of the Navajo and Hopi Indian Relocation Amendments of 1988.".

SEC. 10. Section 15 of Public Law 93-531 is amended by adding the following new subsection (g) at the end thereof:

"(g) Notwithstanding any other provision of law, appeals from any eligibility determination of the Relocation Commission, irrespective of the amount in controversy, shall be brought in the United States District Court for the District of Arizona."

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1236 is a bill to reauthorize the relocation programs authorized under Public Law 93-531. The bill was reported with an amendment. The amendment attempted to reconcile the concerns expressed by members of the committee on the bill. Following is a summary of the amendment:

First, like the Senate bill, the amendment provides for an authorization of $30 million annually. However, such authorization is limited to fiscal years 1989, 1990, and 1991.

Second, the Commission will still be headed by only one Commissioner but will remain an independent agency.

Third, the new Commissioner will still have to provide a report to the Congress but will not have to come up with a new plan for relocation.

Fourth, the section placing a limit on attorneys fees was dropped from the bill.

Fifth, the amendment authorizes the appropriation of $10 million for each fiscal year from 1990 until 1995 for the purpose of funding the Navajo Rehabilitation Trust Fund.

Sixth, the section providing for a priority in the provisions of relocation benefits among those families eligible for such benefits has been dropped from the bill.

Seventh, finally a section was included which would allow the payment of attorney fees to the San Juan Southern Paiute Tribe.

Mr. Speaker, I think this bill represents a reasonable compromise and I urge passage of this bill, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1236, the Navajo and Hopi Relocation Amendments Act.

Over the last 3 years both the House and Senate committees have examined the current Navajo and Hopi Relocation Commission, reviewing its effectiveness and looking for improvements to ease the efforts of relocation of Navajos off of Hopi Lands.

These amendments are designed to increase the effectiveness of the program. The amendments would:

Increase the annual appropriations authorization from $15 million to $30 million, in an effort to more quickly provide benefits to the hundreds of Navajos awaiting their benefits.

Restructure the Commission by establishing a single full-time Commissioner, to be appointed by the President with the advice and consent of the Senate; limit the authority to hire lobbyists and outside attorneys; and call for an enumeration of those persons still residing on Hopi partition lands.

Partially lift what is referred to as the Bennett Freeze, to allow repair and construction for health and safety reasons, without prejudice to either tribe in their ongoing lawsuits.

Mr. Speaker, I view these amendments as a means to streamline the Commission so that the job of relocation can be completed in a more humane manner, and at a quicker pace. There are many families entitled to receive these benefits who have waited years. Now is the time to finish the job.

Mr. Speaker, for the purpose of entering into a colloquy, I yield to the gentleman from Arizona [Mr. UDALL].

It is my understanding that approximately 250 families still reside on the HPL and that a majority of these families have agreed to relocate. Is it the committee's intent that S. 1236, as amended by the House, neither delay nor disturb the priority of relocating such families?

Mr. UDALL. The gentleman is correct, the committee intended no changes in priority.

Mr. RHODES. Under section 8 of the bill, will the extended families of those physically residing on the HPL be able to relocate on the new lands even if such extended families did not reside on the HPL as of July 8, 1980?

Mr. UDALL. That is my understanding.

Mr. RHODES. I thank the gentleman, and would inquire further whether the committee intended that the restructuring of the current Commission might provide a new basis for challenging the relocation program?

Mr. UDALL. The committee does not intend the creation of the new position of commissioner to create or form a new basis for the suspension or delay of the relocation program.

Mr. RHODES. I thank the gentleman and would finally seek to clarify that the statutory modification in the Bennett Freeze area is not intended to impair deliberations by the U.S. District Court for the District of Arizona, currently set for trial in September of next year?

Mr. UDALL. That is my understanding.

Mr. RHODES. I thank the gentleman and am prepared to support this legislation based on these clarifications.

Mr. Speaker, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I rise in support of S. 1236.

I know that this is a very difficult issue for Members of this House to address. It is an emotional issue, it is complex, and frankly, most Members wish they did not have to confront it. But we can't do that. If anyone in this country has a duty to deal with a tragedy such as relocation, it is us. I hope that the Members will understand that regardless of what we do on this bill today, the larger tragedy of this dispute is not going to disappear, and it would be cheating the Navajo and Hopi peoples, the American taxpayer, and even ourselves to pretend that it will, or that it should, simply go away.

I think that we ought to pass this bill. In recent days, I have spoken with other Members and I have studied this legislation. For a much longer period of time, I have been personally very concerned with the whole Navajo-Hopi dispute, and I have serious personal convictions about this policy, what it has done to these people, and what needs to be done to resolve it. I agree with what Senator DECONCINI and Senator MCCAIN said about this legislation: it is by no means a solution to the real problem. It is only a short-term measure that will improve somewhat the conduct of current policy, and perhaps make some aspects of this policy a little less painful and a little more bearable for the thousands of human beings who have suffered.

The bill before us is not a great bill, and in some parts I do not feel that it is a really good bill. But in the sum of its parts, it is clearly better than allowing the current disastrous situation to continue, while the rest of America looks the other way. We must do something now, and in the few remaining days of this Congress, it appears that this is the best that we can do.

This bill will bring some relief. It is only a Band-Aid, however, we are fooling ourselves if we think that it is anything more than that. The massive litigation now pending between the Navajo and Hopi Tribes over the ownership of the 1.3 million-acre Bennett Freeze Area in the Western Navajo Reservation hangs over our heads like a great dark cloud. This issue is now in the courts, and it will remain in the courts for at least a decade or more to come, and it directly affects the lives of nearly 10,000 people.

I want to state for the record that I, along with many others of the committee, recognize that there is a need for safe and sanitary housing to withstand weather conditions on the Bennett Freeze Area. I want to make clear that repair or replacement of dilapidated structures is authorized under existing law. These repairs or replacements are justified at least to the extent that they restore a structure to its former safe and sanitary condition and size, or bring the living conditions of the family into conformity with Federal standards governing physical condition and adequacy of space. To condone anything less than this is to subject these families to continued suffering, and effectively relegates them to a standard less than that we apply to other American citizens. It was not the intent of Congress in 1974 to punish these people, and it is not the intent of Congress today to punish them.

The humiliation of the current self-defeating policy of relocation can only be brought to an end through legislation. Eleven years later, nearly $210 million later, relocation is not even half complete.

It is only through our efforts and the exercise of our conscience that this failed policy can be brought to an end. Mr. Chairman, in the next Congress, we must do precisely that. I intend to work with other Members of the Congress to see that it is done.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the Senate bill, S. 1236, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

RELATING TO RECOGNITION OF THE CONTRIBUTIONS OF THE IROQUOIS CONFEDERACY OF NATIONS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 331) to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution, as amended.

The Clerk read as follows:

H. CON. RES. 331

Whereas the original framers of the Constitution, including, most notably, George Washington and Benjamin Franklin, are known to have greatly admired the concepts of the Six Nations of the Iroquois Confederacy;

Whereas the confederation of the original Thirteen Colonies into one republic was influenced by the political system developed by the Iroquois Confederacy as were many of the democratic principles which were incorporated into the Constitution itself; and,

Whereas, since the formation of the United States, the Congress has recognized the sovereign status of Indian tribes and has, through the exercise of powers reserved to the Federal Government in the Commerce Clause of the Constitution (art. I, s.2, cl. 3), dealt with Indian tribes on a government-to-government basis and has, through the treaty clause (art. II, s.2, cl. 2) entered into three hundred and seventy treaties with Indian tribal Nations;

Whereas, from the first treaty entered into with an Indian Nation, the treaty with the Delaware Indians of September 17, 1778, the Congress has assumed a trust responsibility and obligation to Indian tribes and their members;

Whereas this trust responsibility calls for Congress to "exercise the utmost good faith in dealings with Indians" as provided for in the Northwest Ordinance of 1787, (1 Stat. 50);

Whereas the judicial system of the United States has consistently recognized and reaffirmed this special relationship: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) the Congress, on the occasion of the two hundredth anniversary of the signing of the United States Constitution, acknowledges the contribution made by the Iroquois Confederacy and other Indian Nations to the formation and development of the United States;

(2) the Congress also hereby reaffirms the constitutionally recognized government-to-government relationship with Indian tribes which has been the cornerstone of this Nation's official Indian policy;

(3) the Congress specifically acknowledges and reaffirms the trust responsibility and obligation of the United States Government to Indian tribes, including Alaska Natives, for their preservation, protection, and enhancement, including the provision of health, education, social, and economic assistance programs as necessary, and including the duty to assist tribes in their performance of governmental responsibility to provide for the social and economic well-being of their members and to preserve tribal cultural identity and heritage; and

(4) the Congress also acknowledges the need to exercise the utmost good faith in upholding its treaties with the various tribes, as the tribes understood them to be, and the duty of a great Nation to uphold its legal and moral obligations for the benefit of all of its citizens so that they and their posterity may also continue to enjoy the rights they have enshrined in the United States Constitution for time immemorial.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of House Concurrent Resolution 331 is to acknowledge the contribution of the Iroquois Confederacy of Nations to the heritage of this country.

The resolution also reaffirms the continuing government-to-government relationship between the United States and the Indian Tribes and reaffirms the existence of a trust responsibility toward the Indian tribes.

Mr. Speaker, this resolution is mostly symbolic and noncontroversial but its symbolism is nevertheless very meaningful not only to the Iroquois Confederacy but to all Indian tribes. I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 331, a resolution to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the U.S. Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution.

Indian tribal governments have a unique status in our political system.

They are dependent sovereigns that have a government-to-government relationship, not with the States but with the Federal Government. This resolution reaffirms that relationship. Additionally, it clarifies the trust relationship and acknowledges the need to respect Indian treaties. I believe this is a noncontroversial bill. The committee has received no comments against the resolution, and there are no costs associated with it. Therefore, I urge my colleagues to support House Concurrent Resolution 331.

Mr. CAMPBELL. Mr. Speaker, I rise in strong support of House Concurrent Resolution 331, a concurrent resolution which acknowledges the many contributions of the Iroquois Confederacy of Nations to the development of the U.S. Constitution. This resolution also reaffirms the continuing government-to-government relationship between Indian tribes and the United States.

This bill is very timely, a year in which that we have seen numerous activities and tributes in celebration of the bicentennial of the U.S. Constitution. Often our history books do not focus on the many achievements American Indians have contributed to our society and government, especially in the principles enunciated in the Constitution. Indeed, the Iroquois Confederacy was a model for the articles of the Confederacy. In addition, the Iroquois Confederacy was a source of the revolutionary political concept incorporated in the Declaration of Independence, that one purpose of government was to ensure to all individuals the right to pursue happiness.

This resolution also acknowledges the need to exercise good faith in honoring Indian treaties made between the United States and Indian tribes and that the trust responsibility includes the provision of health, education, social and economic assistance programs, and the duty to ensure the protection of cultural heritage and identity for all Indian people.

I urge my colleagues to support House Concurrent Resolution 331.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

Mr. RHODES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 331), as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

DECLARING THAT CERTAIN LANDS BE HELD IN TRUST FOR THE QUINAULT INDIAN NATION

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5203) to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF QUINAULT INDIAN RESERVATION.—The Quinault Indian Reservation is hereby expanded to include those lands consisting of more or less 11,905 acres and generally depicted on the map entitled, "North Boundary Expansion, Quinault Indian Nation," numbered 88-S2752-1 and dated, September 23, 1988, which shall be on file and available for public inspection in the offices of the Chief, Forest Service, and of the Assistant Secretary for Indian Affairs, Department of the Interior, and of the tribal offices of the Quinault Indian Nation. The boundary of the Olympic National Forest is hereby modified as depicted on the map referred to in this section.

SEC. 2. QUINAULT SPECIAL MANAGEMENT AREA.—The Secretary of Agriculture shall—

(a) manage those Federal lands within the boundaries of the Olympic National Forest consisting of more or less 5,460 acres and generally depicted on the map entitled "Quinault Special Management Area" numbered 88-S2752-2 and dated, September 23, 1988, which shall be on file and available for public inspection in the offices of the Chief, Forest Service, and of the Assistant Secretary for Indian Affairs, Department of the Interior, and of the tribal offices of the Quinault Indian Nation in a manner consistent with Section 3; and

(b) shall distribute the proceeds from the sale of forest products on lands referred to in subsection (a) as provided in Section 4.

SEC. 3. ADMINISTRATION OF LANDS.—(a) All right, title, and interest in lands owned by the United States and administered by the United States Forest Service and referred to in Section 1, shall hereafter—

(1) be administered by the Secretary of the Interior; and

(2) be held in trust by the United States for the Quinault Indian Nation and be part of the Quinault Indian Reservation.

(b) All right, title, and interest in lands which are owned by the United States and administered by the United States Forest Service which are referred to in Section 2 shall remain in the United States and, except as provided in section 4, shall continue to be administered by the United States Forest Service as other National Forest System lands are administered in accordance with all laws, rules and regulations applicable to the national forests.

(c) The rights of the Quinault Indian Nation to revenues under Section 4(b), shall not affect the management of these lands nor create a trust or fiduciary duty on the Secretary of Agriculture with respect to such management beyond that which the Secretary may have under existing law.

SEC. 4. RECEIPTS FROM NATIONAL FOREST SYSTEM LANDS.—(a) Notwithstanding any other provisions of law, the Secretary of Agriculture shall, without further appropriations, receive from the gross proceeds from the sale of forest products from lands referred to in Section 2 a reasonable fee not to exceed ten percent for preparation and administration of timber sales from such lands.

(b) Notwithstanding the requirements of the Act of March 4, 1907 (16 U.S.C. 499) concerning moneys received from revenues generated from the National Forests into the Treasury of the United States, moneys received from the lands referred to in Section 2 shall be distributed in the following manner:

(1) forty-five percent of all moneys received during any fiscal year from said land shall be paid into the accounts referred to in Section 8; and

(2) forty-five percent of all moneys received during any fiscal year from said lands shall be paid to the State of Washington pursuant to the Act of May 23, 1908 (C. 192, 35 Stat. 251 as amended; 16 U.S.C. 500).

SEC. 5. LIMITATIONS ON TIMBER HARVEST.—(a) The Secretary of the Interior shall not approve any sale of unprocessed timber from lands referred to in Section 1 which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which the Secretary determines are surplus to domestic lumber and plywood manufacturing needs.

(b) In addition to restrictions referred to in subsection (a), the Secretary of the Interior shall—

(1) limit the sale of timber from the lands referred to in Section 1 to a quantity equal to or less than a quantity which can be removed from such lands annually in perpetuity on a long term sustained-yield basis: *Provided,* That in order to meet overall multiple-use objectives, the Secretary may establish an allowable sale quantity for any decade which departs from the projected long-term average sale quantity that would otherwise be established. In addition, within any decade, the Secretary may sell a quantity in excess of the annual allowable sale quantity established pursuant to this section so long as the average sale quantity of timber over the decade covered does not exceed such quantity limitation; and

(2) administer all timber and forest products sold from the lands referred to in Section 1 in accordance with the conditions of the Policy Statement for the Grays Harbor Sustained Yield Unit as defined and administered by the Secretary of Agriculture as long as such policy statement remains in effect.

"SEC. 6. EXISTING RIGHTS-OF-WAY AND OTHER INTERESTS.—The Secretary of Agriculture shall reserve permanent easement for the purpose of continuing access, including public access, to National System lands on Forest Service roads numbers 21, 2110, 2120, 2130, 2140, 2190, 2191, and all numbered extensions or segments thereof. Such easements shall be in a form acceptable to the Secretary of Agriculture, including provisions for cooperative maintenance.

SEC. 7. ACCESS TO LANDS.—(a) The Secretary of the Interior shall allow such additional rights-of-way through lands referred to in Section 1 as the Secretary of Agriculture, in consultation with the Secretary of the Interior and the Quinault Indian Nation, considers necessary to provide access to and management of National Forest System lands, including public access. Such rights-of-way shall be located in such manner as the Secretary of the Interior, in consultation with the Secretary of Agriculture and the Quinault Indian Nation, determines to be appropriate.

(b) The Secretary of Agriculture shall allow such rights-of-way through National Forest lands, as the Secretary of the Interior, in consultation with the Secretary of Ag-

riculture and the Quinault Indian Nation, considers necessary to provide access to lands referred to in Section 1. Such rights-of-way shall be located in such a manner as the Secretary of Agriculture, in consultation with the Secretary of the Interior and the Quinault Indian Nation determines to be appropriate.

SEC. 8. USE OF TIMBER SALE PROCEEDS.—The Secretary of the Interior shall maintain a segregated account and shall deposit in such account all funds derived from the sale of unprocessed timber from the lands referred to in Section 1. The Secretary shall make such funds available only for—

(a) costs incurred by the Quinault Indian Nation for the preparation and administration of timber sales, including road construction and maintenance on such lands;

(b) the mitigation of any adverse environmental impacts from timber harvest activities on such lands;

(c) reforestation of any lands referred to in Section 1 or any other lands within the external boundaries of the Quinault Indian Reservation: *Provided*, That nothing herein shall allow the Secretary of the Interior to substitute these funds for other appropriated funds or for Forest Management Deductions funds presently available for reforestation; or

(d) the purchase from willing sellers by the Quinault Indian Nation of any lands or interests in lands within the external boundaries of the Quinault Indian Reservation and any costs incurred by the Quinault Indian Nation incident thereto.

SEC. 9. SAVINGS PROVISIONS.—Nothing in this Act is intended to affect or modify—

(a) the proportional distributive shares of the respective counties of receipts from the sale of timber in the remaining lands of the Olympic National Forest;

(b) any property rights which may exist within the exterior boundaries of the Quinault Indian Reservation as it existed prior to enactment of this Act; and

(c) any valid existing rights-of-way, leases or permits of the Secretary of Agriculture or any person or entity in any of the lands referred to in Section 1.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, H.R. 5203, which was introduced by my colleague, the Honorable AL SWIFT from the State of Washington, is a bill to transfer about 12,000 acres of land to the Secretary of the Interior to be held in trust for the benefit of the Quinault Indian Nation. This land is currently owned by the United States and managed by the Forest Service.

The Quinault Indian Reservation is located in the Olympic Peninsula. Although the Quinault Reservation consists of about 190,000 acres, most of the land has been allotted and the tribe today owns less than 10 percent of such lands.

The intent of this bill is to transfer some lands to the Quinault Indian Nation in order to provide such tribe with an adequate land base. It is not the purpose of this bill to settle any legal land claims or to alter the existing property rights within the Quinault Indian Reservation.

The committee adopted an amendment, the purpose of which was to satisfy the concerns raised by the Forest Service. The amendment reduces the amount of land to be transferred in trust to the Quinault Indian Nation by 5,460 acres.

Mr. Speaker, this bill was referred jointly to this committee and the Committee on Agriculture. This committee has worked closely with the Agriculture Committee and I want to include in the RECORD a letter from the Agriculture Committee advising us that they have no problems with the bill and no objection to the consideration of this bill.

I urge my colleagues to support the bill.

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Mr. Speaker, I yield as much time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. TORRICELLI. Mr. Speaker, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Speaker, it is my hope to enter into a colloquy with the author of the amendment, the gentleman from Washington [Mr. SWIFT].

It is my understanding that this legislation does not intend to terminate or diminish the treaty rights of any Indian tribe, either federally recognized or not federally recognized, is that correct?

Mr. SWIFT. That is correct, this is the intent of the regulations, and is so intended.

Mr. TORRICELLI. If the gentleman will yield further, I understand this does not intend to impair the rights of any tribe or even any individual Indian, is this correct?

Mr. SWIFT. Mr. Speaker, that is correct, that is also the intent of the bill and the intent of the committee.

Mr. TORRICELLI. Mr. Speaker, I thank the gentleman for entering into this colloquy and making his thoughts and interpretations clear in that regard.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

This bill was referred jointly to our committee and the Committee on Agriculture, and I include in the RECORD a letter from the Committee on Agriculture advising us they have no problem with the bill and no objection to the consideration of the bill.

Again I urge my colleagues to support this.

The letter to which I referred is as follows:

COMMERCE ON AGRICULTURE,
Washington, DC, October 3, 1988.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On September 28, 1988, the Committee on Interior and Insular Affairs ordered reported H.R. 5203, to declare that certain lands be held in trust for the Quinalt Indian Nation and for other purposes. You have asked that this bill be scheduled for floor consideration under suspension of the rules on Monday, October 3, 1988.

The Committee on Agriculture has jurisdiction over several matters set forth in H.R. 5203. Specifically, the bill would modify the boundary of the Olympic National Forest and provide for changes in the receipt-sharing formula on a portion of the Forest. I understand that H.R. 5203, as reported by the Committee on Interior and Insular Affairs, reflects modifications to H.R. 5203 that were suggested by the Committee on Agriculture and included in the bill to be considered on the suspension calendar by the House.

With these changes, I am agreeable to deferring consideration of H.R. 5203 by the Committee on Agriculture so that the bill can be considered expeditiously by the House. I do so without in any respect waiving jurisdiction with regard to substantive issues addressed in the bill. Should any provisions of the bill become an issue in the Senate, I intend to seek the Committee's representation in any conference that may be held.

Please make this letter a part of the record during consideration of H.R. 5203 by the House.

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

Mr. RHODES. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Unlike most of the legislation we have had before us today, there is considerable controversy about this particular bill and I think our colleagues should be aware there will be some "no" votes on this.

The administration, for example, opposed enactment of H.R. 5203 under which the tribe would have received gratuitously awarded timber rights where the courts determined they have no rightful claim and would establish an undesirable precedent that could lead to reopening of countless other Indian claims, and it is my information, if presented to the President, that the Secretary of Agriculture, Secretary of the Interior and the Director of the Office of Management and Budget as well as the Attorney General would recommend that this bill be vetoed, should it get that far.

So there will be, I think, considerable controversy with regard to this particular bill given the fact that the report's determination of rightful claims here is not really being represented by the particular legislation that we have.

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for yielding.

I am not critical to the gentleman for the information he stated because this has moved very rapidly in the last 24 to 36 hours, but I believe at least this gentleman is informed that the objections from the Department of Agriculture have been met and that they have no position on the bill, and that the objections of the Interior Department have been overcome and that they support the bill. That is this gentleman's information as of late today, and that could be a very recent change since the gentleman received his information, not knowing exactly the timing. I do not want to say that the gentleman is wrong, but we do have different information from the administration.

Mr. WALKER. Mr. Speaker, I thank the gentleman for that information. My information is in printed form and he may have later information than I do, but I say to the gentleman that that is a problem with moving these bills so fast. None of the Members are operating very much in the way of information, period. The latest information I have is that this bill still does have a problem and that is obviously subject to change between now and the time we would vote, but it is still, I think, raising the question of whether the claims at the courts have not upheld them in the past.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 5203, a bill to declare that certain lands be held in trust for the Quinalt Indian Nation and for other purposes.

H.R. 5203 helps to resolve a dispute over the boundary of the Quinalt Indian Reservation in Washington that has existed since an erroneous survey was conducted in 1892. The bill would do so by transferring 12,000 acres of land currently contained in the Olympic National Forest to the Secretary of the Interior to be included in the Quinalt Indian Reservation.

Records indicate that a total of 15,038 acres of land were mistakenly excluded from the Quinalt Reservation at the time of the land survey. Of these 9,600 acres of land originally part of the Quinalt Reservation are currently within the Olympic National Forest and approximately 3,100 acres are within the Olympic National Park. Other lands, totaling 1,270 acres, are currently held by the State of Washington, and Grays Harbor and Jefferson Countries. Private land amounting to 1,065 acres was also erroneously excluded from the Quinalt Reservation.

The bill would also provide for the Forest Service to continue to manage a 5,400-acre tract of land in accordance with the provisions of the Olympic National Forest land and resource management plan, but requires that a portion of the timber receipts from this tract be given to the Quinalt Nation for certain land consolidation efforts. The income derived from this area is intended to compensate for revenues lost from lands erroneously excluded from the reservation which are currently administered as part of the Olympic National Park or in other public or private ownership.

This provision of the bill provides a unique and somewhat troubling solution to the problems created by the erroneous land survey. Although the Committee on Agriculture would have preferred to correct the previous survey error by returning all the lands determined to have been erroneously excluded from the reservation to the Quinalt Nation, the varied ownership of these lands made such a solution extremely difficult. Therefore the committee accepts the decision to use revenues from Forest Service lands to aid in compensating for revenues lost from lands erroneously excluded from the Quinalt Reservation.

The Committee on Agriculture accepts this solution with the understanding that these "section 2" lands will continue to be managed in accordance with all laws, rules, and regulations governing the administration of other segments of the National Forest System. Furthermore, the committee stresses that the receipts-sharing arrangement authorized by section 4 of H.R. 5203, shall not create a trust or fiduciary duty on the Secretary of Agriculture with respect to the management of these lands beyond any obligations that the Secretary may have under current law. These lands should continue to be managed in accordance with an approved forest plan for the Olympic National Forest, as they would if this receipt-sharing provision were not in effect.

Mr. Speaker, with the changes made in H.R. 5203 to address these concerns I urge my colleagues to support the bill.

Mr. BONKER. Mr. Speaker, H.R. 5203 authored by my colleague, Mr. SMITH, is designed to achieve a very worthwhile purpose. There are a few points, however, that I would like addressed. I would like to list them here and urge my friend to respond to them in a subsequent statement.

Section 8 of the legislation provides that the Quinault Indian Nation may use the proceeds from the lands being transferred to purchase land from willing sellers with the Quinault Indian Nation. I assume that all purchases under this legislation should strictly adhere to the requirements of 25 CFR section 152.22 which call for secretarial approval for the conveyance of individual owned trust or restricted land.

I am also aware that special relationships may exist between owners of individual allotments and coowners of the same parcels of land. It goes without saying that special relationships may exist between owners of individual allotments and their spouses, brothers and sisters and lineal descendants. I understand that these special relationships are protected by this legislation.

Finally, I am concerned about the implications of this legislation with respect to the rights of individuals with interests in the Quinault Indian Reservation as it exists prior to the enactment of this legislation. I am aware that some groups and individuals claim rights within the exterior boundaries of the Quinault Reservation as it currently exists. Nothing in this act is intended to affect the rights of such groups and individuals.

Mr. SWIFT. Mr. Speaker, I know the concerns of my colleague Mr. BONKER with H.R. 5203. As author of the bill I'm glad to be able to assure him of the intent regarding his points of sensitivity.

I intend that nothing in this legislation should be construed as modifying the applicability of the regulations which govern the sales of Indian lands of the reservation—more particularly, the applicability of 25 CFR section 152.25(a) as it requires the Indian owners receive fair market value for any sale of trust land under the provisions of the legislation.

I share the concerns of the gentleman from Washington State, Mr. BONKER, with regard to the special relationships which may exist between the owners and coowners of the same allotments. I can assure the gentleman that, as generally described in 25 CFR section 152, any purchaser of an allotment interest must pay the full market value for the parcel and that the secretary is obliged to provide notice to direct relatives of prospective grantors and to coowners of individual allotments prior to approving the sale of allotment interest.

I would like to point out that nothing in this legislation is intended to affect the rights of groups or individuals with interests in the Quinault Indian Nation as it exists prior to enactment of this legislation.

Finally, the savings clause—section 9—has been the subject of some concern, including the brief colloquy I had with Mr. TORRICELLI. To reiterate, the intent of the bill and the committee is to be neutral with respect to whatever property right claims, whether treaty or statute based, that individuals or groups may have within the boundaries of the Quinault Reservation before the addition of the land transferred by this bill in trust to the Quinault Indian Nation. The savings clause does not apply to the new lands. The savings clause does not and is not intended to confer any rights or provide any congressional recognition to any of the individuals or groups that informed the committee of possible litigation. Nothing in this bill is intended to encourage litigation in any way.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and pass the bill. H.R. 5203, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT OF 1988

Mr. UDALL. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4102) to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, AZ, and for other purposes.

The Clerk read as follows:

Senate amendment: Page 29, strike out lines 16 to 20.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge the House to approve H.R. 4102, the Salt River Indian Water Rights Settlement, as amended by the Senate.

On September 13, 1988, the House passed H.R. 4102 by a voice vote.

On September 30 the Senate passed the bill, also by a voice vote.

However, the Senate struck a provision intended to resolve a technical problem with an earlier settlement with the Ak-Chin Indian Community of Arizona.

This problem, which has no bearing whatsoever on the Salt River Settlement, can and will be resolved by other means.

Accordingly, Mr. Speaker, I ask the House to agree to the Senate amendment to H.R. 4102 and send this highly meritorious bill to the President.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of concurring the Senate amendment to H.R. 4102, the Salt River Pima-Maricopa Indian Community Water Settlement. The amendment is technical in nature, and H.R. 4102 previously passed the House without opposition. Therefore, I urge my colleagues to concur in the Senate amendment.

Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4102.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

DISAGREEING WITH SENATE AMENDMENT AND AGREEING TO CONFERENCE ON H.R. 5261, INDIAN HEALTH CARE AMENDMENTS OF 1988

Mr. UDALL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 565) providing for taking from the Speaker's table the bill (H.R. 5261) to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes, with Senate amendments thereto, disagreeing with the Senate amendments and agreeing to the conference requested by the Senate.

The Clerk read as follows:

H. RES. 565

Resolved, Upon the adoption of this resolution, the House of Representatives shall be considered to have taken from the Speaker's table the bill, H.R. 5261, to reauthorize and amend the Indian Health Care Improvement Act, and for other purposes, with Senate amendments thereto, to have disagreed with the Senate amendment and to have agreed to the conference requested by the Senate.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consumer.

Mr. Speaker, I rise in support of this resolution.

The House passed H.R. 5261, the Indian Health Care Amendments of 1988, -September 13.

The Senate passed the bill on September 28 with numous amendments and requested a conference.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I rise in support of the resolution insiting on going to conference on H.R. 5261, the Indian health care amendments. This bill has been expected for some 6 years, and I believe that the conference can be concluded expeditiously. Therefore, I urge my colleagues to support House Resolution 565.

The SPEAKER, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. UDALL] that the House suspend the rules and agree to the resolution, (H. Res. 565).

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2723, S. 2800, S. 1236, House Concurrent Resolution 331, H.R. 5203, H.R. 4102, and House Resolution 565, the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AGREEING TO SENATE AMENDMENT TO H.R. 900, WEST VIRGINIA NATIONAL INTEREST RIVER CONSERVATION ACT OF 1987, WITH AN AMENDMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 566) providing for taking from the Speaker's table the bill (H.R. 900) to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes, with a Senate amendment thereto and agree to the Senate amendment with an amendment.

The Clerk read as follows:

H. Res. 566

Resolved, Upon the adoption of this resolution, the House of Representatives shall be considered to have taken from the Speaker's table the bill H.R. 900, to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes, with the Senate amendment thereto and to have agreed to the Senate amendment with an amendment as follows:

The House amendment to the Senate amendment: In lieu of the matter proposed

to be stricken and the matter proposed to be inserted, strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "West Virginia National Interest River Conservation Act of 1987".

TABLE OF CONTENTS

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) The outstanding natural, scenic, cultural and recreational values of the segment of the New River in West Virginia within the boundaries of the New River Gorge National River have been preserved and enhanced by its inclusion in the National Park System.

(2) The establishment of the New River Gorge National River has provided the basis for increased recreation and tourism activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy.

(3) Certain boundary modifications to the New River Gorge National River are necessary to further protect the scenic resources within the river's visual corridor and to provide for better management of the national park unit.

(4) Several tributaries of the New River in West Virginia also possess remarkable and outstanding features of national significance. The segment of the Gauley River below Summersville Dam has gained national recognition as a premier whitewater recreation resource. The lower section of the Bluestone River and the lower section of the Meadow River possess remarkable and outstanding natural, scenic, and recreational values due to their predominantly undeveloped condition.

(5) Portions of several of the New River tributaries, including segments of the Gauley River, the Meadow River, and the Bluestone River are suitable for inclusion in the National Park System or the National Wild and Scenic Rivers System.

(6) It is in the national interest to preserve the natural condition of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia and to enhance recreational opportunities available on the free-flowing segments.

(b) PURPOSE.—The purpose of this Act is to provide for the protection and enhancement of the natural, scenic, cultural, and recreational values on certain free-flowing segments of the New, Gauley, Meadow, and Bluestone Rivers in the State of West Virginia for the benefit and enjoyment of present and future generations.

TITLE I—NEW RIVER GORGE NATIONAL RIVER

SEC. 101. BOUNDARY MODIFICATION.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out "NERI–20,002, dated July 1978" and substituting "NERI–80,023, dated January 1987".

SEC. 102. COOPERATIVE AGREEMENTS WITH STATE.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

"SEC. 1113. COOPERATIVE AGREEMENTS WITH STATE.

"In administering the national river, the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable or nonreimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.".

SEC. 103. IMPROVEMENT OF ACCESS AT CUNARD.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

"SEC. 1114. IMPROVEMENT OF ACCESS AT CUNARD.

"(a) DEVELOPMENT AND IMPROVEMENT.—The Secretary shall expeditiously acquire such lands, and undertake such developments and improvements, as may be necessary to provide for commercial and noncommercial access to the river near Cunard. No restriction shall be imposed on such access based on the time of day, except to the extent required to protect public health and safety.

"(b) INTERIM MEASURES.—Pending completion of the developments and improvements referred to in subsection (a), the Secretary shall permit the motorized towing of whitewater rafts in the section of the national river between Thurmond and Cunard when the volume of flow in the river is less than three thousand cubic feet per second.".

SEC. 104. FLOW MANAGEMENT.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end:

"SEC. 1115. FLOW MANAGEMENT.

"(a) FINDINGS.—The Congress finds that adjustments of flows from Bluestone Lake project during periods of low flow are necessary to respond to the congressional mandate contained in section 1110 of this Act and that such adjustments could enhance the quality of the recreational experience in the segments of the river below the lake during those periods as well as protect the biological resources of the river.

"(b) REPORT TO CONGRESS REQUIRED.—The Secretary of the Army, in conjunction with the Secretary of the Interior, shall conduct a study and prepare a report under this section. The report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives not later than December 31, 1989. Before submission of the report to these Committees, a draft of the report shall be made available for public comment. The final report shall include the comments submitted by the Secretary of the Interior and the public, together with the response of the Secretary of the Army to those comments.

"(c) CONTENTS OF STUDY.—The study under this section shall examine the feasibility of adjusting the timing of daily releases from Bluestone Lake project during periods when flows from the lake are less than three thousand cubic feet per second. The purpose of such adjustment shall be to improve recreation (including, but not limited to, fishing and whitewater recreation) in the New River Gorge National River. Any such adjustments in the timing of flows which are proposed in such report shall be consistent with other project purposes and shall not have significant adverse effects on fishing or on any other form of recreation in Bluestone Lake or in any segment of the river below Bluestone Lake. The study shall assess the effects of such flow adjustments on the quality of recreation on the river in the segments of the river between Hinton and Thurmond and between Thurmond and the downstream boundary of the New River Gorge National River, taking into account the levels of recreational visitation in each of such segments.

"(d) TEST PROCEDURES.—As part of the study under this section, the Secretary of the Army shall conduct test releases from Bluestone Lake project during twenty-four-hour periods during the summer of 1989 when flows are less than three thousand cubic feet per second from the project. All such adjustments shall conform to the criteria specified in subsection (c). The tests shall provide adjustments in the timing of daily flows from Bluestone Lake project which permit flows higher than the twenty-four-hour average to reach downstream recreational segments of the river during morning and afternoon hours. The tests shall develop specific data on the effects of flow adjustments on the speed of the current and on water surface levels in those segments. No test shall be conducted when flows from the lake are less than one thousand seven hundred cubic feet per second and no test shall reduce flows below that level.".

SEC. 105. VISITOR FACILITY.

Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15 and following) is amended by adding the following new section at the end thereof:

"SEC. 1116. GLADE CREEK VISITOR FACILITY.

"In order to provide for public use and enjoyment of the scenic and natural resources of the New River Gorge National River and and in order to provide public information to visitors with respect to the national river and associated State parklands, the Secretary is authorized and directed to construct a scenic overlook and visitor information facility at a suitable location accessible from Interstate 64 in the vicinity of Glade Creek within the boundary of the national river. There is authorized to be appropriated such sums as may be necessary to carry out construction (including all related planning and design) of the scenic overlook and visitor information facility.".

TITLE II-GAULEY RIVER NATIONAL RECREATION AREA

SEC. 201 ESTABLISHMENT

(a) IN GENERAL.—In order to protect and preserve the scenic, recreational, geological, and fish and wildlife resources of the Gauley River and its tributary, the Meadow River, there is hereby established the Gauley River National Recreation Area (hereinafter in this Act referrred to as the "recreation area").

(b) AREA INCLUDED.—The recreation area shall consist of the land, waters, and interests therein generally depicted on the boundary map entitled "Gauley River National Recreation Area", numbered NRA-GR/20,000A and dated July 1987 and on the boundary map depicting the Meadow River, numbered WSR-MEA/20,000A and dated July 1988. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(c) BOUNDARY MODIFICATIONS.—Within five years after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report containing any boundary modifications which the Secretary recommends, together with the reasons therefor.

SEC. 202. ADMINISTRATION.

(a) IN GENERAL.—The recreation area shall be administered by the Secretary in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1-4).

(b) HUNTING AND FISHING; FISH STOCKING.—The Secretary shall permit hunting, trapping and fishing on lands and waters within the recreation area in accordance with applicable Federal and State laws. The Secretary may, after consultation with the State of West Virginia Department of Natural Resources, designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife habitat or public use and enjoyment subject to such terms and conditions as he deems necessary in the furtherance of this Act. The Secretary shall permit the State of West Virginia to undertake or continue fish stocking activities carried out by the State in consultation with the Secretary on waters within the boundaries of the recreation area. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of West Virginia with respect to fish and wildlife.

(c) COOPERATIVE AGREEMENTS WITH STATE.—In administering the recreation area the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(d) APPLICATION OF OTHER PROVISIONS.—The provisions of section 7(a) of the Act of October 2, 1968 (16 U.S.C. 1278(a)), shall apply to the recreation area in the same manner and to the same extent as such provisions apply to river segments referred to in such provisions.

(e) RECREATIONAL ACCESS.—

(1) EXISTING PUBLIC ROADS.—The Secretary may enter into a cooperative agreement with the State of West Virginia under which the Secretary shall be authorized to maintain and improve existing public roads and public rights-of-way within the boundaries of the national recreation area to the extent necessary to facilitate and improve reasonable access to the recreation area at existing access points where such actions would not unreasonably diminish the scenic and natural values of the area.

(2) FACILITIES ADJACENT TO DAM.—In order to accommodate visitation to the recreation area, the Secretary shall construct such facilities as necessary to enhance and improve access, vehicle·parking and related facilities, and provide river access for whitewater recreation and for other recreational activities, immediately downstream of the Summersville Dam, to the extent that such facilities are not provided pursuant to section 205 and such facilities are within the boundaries of the recreation area. Such construction shall be subject to the memorandum of understanding referred to in subsection (f).

(3) OTHER LOCATIONS.—In addition, in order to provide reasonable public access and vehicle parking for public use and enjoyment of the recreation area, consistent with the preservation and enhancement of the natural and scenic values of the recreation area, the Secretary may, with the consent of the owner thereof, acquire such lands and interests in lands to construct such parking and related facilities at other appropriate locations outside the boundaries of, but within one mile of the recreation area as may be necessary and appropriate. Any such lands shall be managed in accordance with the management provisions for the recreation area as defined in subsection (a).

(f) PROPERTIES AND FACILITIES OF FEDERAL AGENCIES.—After consultation with any other Federal agency managing lands and waters within or contiguous to the recreation area, the Secretary shall enter into a memorandum of understanding with such other Federal agency to identify those areas within the recreation area which are (1) under the administrative jurisdiction of such other agency; (2) directly related to the operation of the Summersville project; and (3) essential to the operation of such project. The memorandum of understanding shall also include provisions regarding the management of all such lands and waters in a manner consistent with the operation of such project and the management of the recreation area.

SEC. 203. MISCELLANEOUS

(a) LANDS AND WATERS.—The Secretary may acquire lands or interests in lands within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs.

(b) JURISDICTION.—Lands, waters and interests therein within the recreation area which are administered by any other agency of the United states and which are not identified under section 202 as directly related to the Summersville project and essential to the operation of that project shall be transferred without reimbursement to the administrative jurisdiction of the Secretary.

(c) PROTECTION OF EXISTING PROJECT.—Nothing in this Act shall impair or affect the requirements of section 1102 of Public Law 99-662 or otherwise affect the authorities of any department or agency of the United States to carry out the project purposes of the Summersville project, including recreation. In releasing water from such project, in order to protect public health and safety and to provide for enjoyment of the resources within the recreation area, other departments and agencies of the United States shall cooperate with the Secretary to facilitate and enhance whitewater recreational use and other recreational use of the recreation area.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purpose of this title.

SEC. 205. SPECIAL CONDITIONS.

(a) NEW PROJECT CONSTRUCTION.—If, after the enactment of this Act, any department, agency, instrumentality or person commences construction of any dam, water conduit, reservoir, powerhouse, transmission line or other project at or in conjunction with the Summersville project, the department, agency, instrumentality or other person which constructs or operates such new project shall comply with such terms and conditions as the Secretary deems necessary, in his discretion, to protect the resources of the recreation area, including such terms and conditions as the Secretary deems necessary to ensure that such new project will not adversely affect whitewater recreation and other recreation activities during or after project construction.

(b) ADVERSE EFFECTS ON THE RECREATION AREA.—If any such new project referred to in subsection (a) will create a direct, physical, adverse effect on access to the recreation area immediately downstream of the Summersville Dam during or after project construction, including vehicle parking, related facilities, and river access for whitewater recreation and other recreational use of the recreation area, the department, agency, instrumentality or person constructing such project shall replace and enhance the adversely affected facilities in such manner as may be appropriate to accommodate visitation, as determined by the Secretary.

(c) NEW PROJECT PERMITS.—The terms and conditions referred to in this section shall be included in any license, permit, or exemption issued for any such new project. Any such new project shall be subject to all provisions of this Act, including section 202(d), except that during the four-year period after the enactment of this Act, nothing in this Act shall prohibit the licensing of a project adjacent to Summersville Dam as proposed by the city of Summersville, or by any competing project applicant with a permit or license application on file as of August 8, 1988, if such project complies with this section. If such project is licensed within such four-year period, the Secretary shall modify the boundary map referred to in section 201 to relocate the upstream boundary of the recreation area along a line perpendicular to the river crossing the point five hundred and fifty feet downstream of the existing valve house and one thousand two hundred feet (measured along the river bank) upstream of United States Geological Survey Gauge Numbered 03189600, except in making the modification the Secretary shall maintain within the boundary of the recreation area those lands identified in the boundary map referred to in section 201 which are not necessary to the operation of such project.

SEC. 206. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Gauley River National Recreation Area Advisory Committee (hereinafter in this Act referred to as the "Advisory Committee"). The Advisory Committee shall be composed of fifteen members appointed by the Secretary to serve for terms of two years. Any member of the Advisory Committee may serve after the expiration of his term until a successor is appointed. Any member of the Advisory Committee may be appointed to serve more than one term. The Secretary or his designee shall serve as Chairman.

(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, or his designee, shall meet on a regular basis and consult with the Advisory Committee on matters relating to development of a management plan for the recreation area and on implementation of such plan.

(c) EXPENSES.—Members of the Advisory Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(d) MEMBERSHIP.—The Secretary shall appoint members to the Advisory Committee as follows:

(1) one member to represent other departments or agencies of the United States administering lands affected by the recreation area, to be appointed from among persons nominated by the head of such department or agency;

(2) two members to represent the State Department of Natural Resources, to be appointed from among persons nominated by the Governor of the State of West Virginia;

(3) one member to represent the State Department of Commerce to be appointed from among persons nominated by the Governor of West Virginia;

(4) three members to represent the commercial whitewater rafting industry in West Virginia;

(5) one member to represent noncommercial whitewater boating organizations;

(6) one member to represent conservation organizations in West Virginia;

(7) one member to represent individuals engaged in game fishing in West Virginia;

(8) one member to represent the Nicholas County Chamber of Commerce;

(9) one member to represent the Fayette County Chamber of Commerce;

(10) one member to represent recreational users of Summersville Lake; and

(11) two members to represent local citizens or citizens groups which are concerned with the Gauley River or own lands included within the boundaries of the recreation area.

(e) TERMINATION; CHARTER.—The Advisory Committee shall terminate on the date ten years after the enactment of this Act notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776). The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to this Advisory Committee.

TITLE III—BLUESTONE NATIONAL SCENIC RIVER

SEC. 301. DESIGNATION OF LOWER BLUESTONE RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) BLUESTONE, WEST VIRGINIA.—The segment in Mercer and Summers Counties, West Virginia, from a point approximately two miles upstream of the Summers and Mercer County line down to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake as depicted on the boundary map entitled 'Bluestone Wild and Scenic River', numbered WSR-BLU/20,000, and dated January 1987; to be administered by the Secretary of the Interior as a scenic river. In carrying out the requirements of subsection (b) of this section, the Secretary shall consult with State and local governments and the interested public. The Secretary shall not be required to establish detailed boundaries of the river as provided under subsection (b) of this section. Nothing in this Act shall preclude the improvement of any existing road or right-of-way within the boundaries of the segment designated under this paragraph. Jurisdiction over all lands and improvements on such lands owned by the United States within the boundaries of the segment designated under this paragraph is hereby transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior, subject to leases in effect on the date of enactment of this paragraph (or renewed thereafter) between the United States and the State of West Virginia with respect to the Bluestone State Park and the Bluestone Public Hunting and Fishing Area. Nothing in this Act shall affect the management by the State of hunting and fishing within the segment designated under this paragraph. Nothing in this Act shall affect or impair the management by the State of West Virginia of other wildlife activities in the Bluestone Public Hunting and Fishing Area to the extent permitted in the lease agreement as in effect on the enactment of this paragraph, and such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West Virginia, the Secretary may terminate such leases and assume administrative authority over the areas concerned. Nothing in the designation of the segment referred to in this paragraph shall affect or impair the management of the Bluestone project or the authority of any department, agency, or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. Nothing in this Act shall be construed to affect the continuation of studies relating to such project which were commenced before the enactment of this paragraph.".

TITLE IV—GENERAL PROVISIONS

SEC. 401. COORDINATION AMONG RECREATIONAL RESOURCES.

Subject to existing authority, the Secretary of the Interior shall cooperate with, and assist, any regional authority comprised of representatives of West Virginia State authorities and local government authorities in or any combination of the foregoing Nicholas, Fayette, Raleigh, Summers, Greenbrier, and Mercer Counties, West Virginia, for the purposes of providing for coordinated development and promotion of recreation resources of regional or national significance which are located in southern West Virginia and management by State or Federal agencies, including State, local and National Park System units, State and National Forest System units, and historic sites.

SEC. 402. SPECIAL PROVISIONS.

Subject to his responsibilities to protect the natural resources of the National Park System, the Secretary of the Interior shall enter into a cooperative agreement with the State of West Virginia providing for the State's regulation, in accordance with State law, of persons providing commercial recreational watercraft services on units of the National Park System and components of the National Wild and Scenic Rivers System subject to this Act.

SEC. 403. PUBLIC AWARENESS PROGRAM.

The Secretary of the Interior shall establish a public awareness program to be carried out in Mercer, Nicholas, and Greenbrier Counties, West Virginia, in cooperation with State and local agencies, landowners, and other concerned organizations. The program shall be designed to further public understanding of the effects of designation as components of the National Wild and Scenic Rivers System of segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by this Act as units of such system. By December 31, 1992, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate describing the program undertaken pursuant to this section. Section 7(b) of the Wild and Scenic Rivers Act shall continue to apply to the segments subject to this section until December 31, 1992.

SEC. 404. CONSOLIDATED MANAGEMENT.

In order to achieve the maximum economy and efficiency of operations in the administration of the National Park System units established or expanded pursuant to this Act, the Secretary shall consolidate offices and personnel administering all such units to the extent practicable and shall utilize the existing facilities of the New River Gorge National River to the extent practicable.

SEC. 405. NEW SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS.

Any new spending authority which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts.

TITLE V—TECHNICAL CHANGE TO WILD AND SCENIC RIVERS ACT

SEC. 501. ACREAGE LIMITATIONS.

Notwithstanding the provisions of section 501(b)(1)(B) of Public Law 99-590, section 3(b) of the Wild and Scenic River Act (16 U.S.C. 1274(b)) is amended to read as follows:

"(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of designation of such component under subsection (a) (except where a different date is provided in subsection (a)), establish detailed boundaries therefor (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); and determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments.

"Notice of the availability of the boundaries and classification, and of subsequent boundary amendments shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second,

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the "West Virginia National Interest River Conservation Act of 1987" was passed by the House May 27, 1987 and was amended by the Senate erlier this month. The Senate made two significant amendments, the deletion of the Greenbrier River wild and scenic designation and a matter relating to trapping within the three river segments addressed by the bill.

The amendments by the Senate are of some concern and while I am reluctantly recommending acceptance of the deletion of the Greenbrier River, the language relating to trapping is unacceptable in a wild and scenic river being managed by the National Park Service. In order to overcome these problems, our colleague and the author of the bill, NICK RAHALL, has been in lengthy negotiations with the Senate and has crafted an agreement which I find acceptable.

First, the National Wild and Scenic Rivers Act designation for a 5.5 mile segment of the "Meadow River" would be eliminated. The river segment would instead be included as part of the Gauley River National Recreation Area, and as such, managed as part of that unit of the National Park System in which trapping would be specifically authorized.

Second, the reference to trapping within the Bluestone Wild and Scenic River in the Senate amendment is deleted.

Third, the language designating the Bluestone River would be modified to ensure that State wildlife management practices would continue if and when the State of West Virginia chooses to renew its existing lease arrangement with the Federal Government at the Bluestone Public Hunting and Fishing Area.

Finally, these amendments authorize the National Park Service to construct a scenic overlook and visitors facility in the Glade Creek area of the New River Gorge National River. Since the majority of the Glade Creek Area was recently acquired by the National Park Service, it is now appropriate to proceed with the necessary authorization to construct the visitor facility.

Mr. Speaker, the West Virginia congressional delegation has worked long and hard on this legislation. I am hopeful that these modifications will clear the way for final action on the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SLAUGHTER].

Mr. SLAUGHTER of Virginia. Mr. Speaker, I rise in support of H.R. 900, to preserve and protect sections of the New, Gauley, Meadow, Bluestone, and Greenbrier Rivers in southern West Virginia for the benefit and enjoyment of current and future generations.

I am particularly interested in title II of this measure, which creates a national recreation area along the Gauley River. Section 205 of the bill explicitly permits the licensing of a hydroelectric project at the Summersville Dam by the Federal Energy Regulatory Commission [FERC]. There have been and currently are two applicants for this project, one of which is the city of Manassas which is located in my congressional district. These two applications are currently pending before FERC, which by law will license the best adapted project, after taking into account and balancing environment as well as energy interests.

During original House committee consideration of this bill, I worked with the gentleman from Arizona [Mr. UDALL], the gentleman from Minnesota [Mr. VENTO], the gentleman from Alaska [Mr. YOUNG], and the gentleman from Idaho [Mr. CRAIG] to ensure equal treatment by FERC of these two project applicants. Such treatment was assured by the bill passed by the House in May 1987.

Unfortunately, during Senate consideration of this measure, provisions were added limiting the size of this hydroelectric facility, thereby eliminating the city of Manassas' application from consideration by FERC and interfering with the competitive licensing process before FERC.

I am pleased that this detrimental Senate amendment to H.R. 900 has been dropped from the version of the bill now before us, and that equal treatment of the two current applicants for the hydroelectric project at the Summersville Dam is granted by this measure.

I am deeply appreciative of the efforts of the gentleman from West Virginia [Mr. RAHALL] and the gentleman from California [Mr. LAGOMARSINO] in achieving this compromise, and I am pleased to support this legislation.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of H.R. 900 contained in this resolution to protect the values of segments of the New, Gauley, Meadow and Bluestone Rivers in West Virginia.

This legislation was originally passed by the body in May, 1987. It was amended in the Senate to, among other things, permit trapping activities to continue on the Gauley, Meadow and Bluestone Rivers. I am pleased that a compromise on this issue has been reached between the sponsors of the legislation, the State fish and wildlife agencies and interested user groups.

As embodied in the resolution, the compromise expands the Gauley River National Recreation Area to include the Meadow River, thereby permitting hunting, fishing and trapping to continue on these rivers. It also protects the State's wildlife and fishery management practices on the Bluestone Public Hunting and Fishing Area. In addition, the amendments authorize construction of a visitor information facility for the New River Gorge National River.

I might also add that the amendments to H.R. 900 preserve the competitive licensing process for a hydroelectric project at the Summersville Dam on the Gauley River. This was clearly the intent of the bill when it was passed by this body last year.

Mr. Speaker, I believe these amendments improve the bill. Primarily, they protect the sportsmens' rights and preserve the State's management and jurisdiction of fish and wildlife along the Gauley, Meadow and Bluestone Rivers. Therefore, I urge my colleagues to approve the amended version of H.R. 900 contained in the resolution.

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Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. I thank the gentleman for yielding time to me.

Mr. Speaker, the distinguished chairman of the Subcommittee on National Parks and Public Lands, my friend and colleague BRUCE VENTO, has fully explained this legislation and I want to express my deep appreciation to him for his yeoman efforts on behalf of H.R. 900.

The West Virginia congressional delegation has worked long and hard on this legislation and it is perhaps unique among measures of this nature in that it enjoys the support of such a wide range of interests—from the local chamber of commerce to regional and national environmental groups, from whitewater rafting interests to the United Mine Workers of America.

In 1978, we established the New River Gorge National River. In, 1988, on two major tributaries of the New River we are establishing the Gauley River National Recreation Area which includes a segment of the Meadow

River, and the Bluestone National Wild and Scenic River.

We expect great things from the Gauley River National Recreation Area, which would be established on the 25-mile segment of the river below Summersville Dam.

In this regard, I think it appropriate to remember what President Lyndon Johnson said when he dedicated the Summersville project on September 3, 1966. He said: "We have come here to consummate an act of faith in the future of West Virginia."

This legislation builds upon that act of faith; for the future of West Virginia and the Nation as a whole. With this bill we are protecting some outstanding natural resources for their natural, scenic, cultural and recreational values. In the process, we are establishing in West Virginia the largest network of federally protected rivers in the eastern United States.

With this House action, we are also adding an authorization and directive to the National Park Service to construct a scenic overlook and visitors facility with access from Interstate 64 at the Glade Creek area of the New River Gorge National River. This is an extremely important project to the development of the park, and the whole region.

Mr. Speaker, I believe we have addressed all of the concerns which may have existed with this bill and I look forward to its speedy enactment.

Mr. VENTO. Mr. Speaker, I thank the gentleman for his comments and for his good work on this matter.

Mr. Speaker, we have more work to do in this area, but it is a major accomplishment.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and agree to the resolution, H. Res. 566.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZING EXCHANGE OF CERTAIN NATIONAL FOREST SYSTEM LANDS IN TARGHEE NATIONAL FOREST

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4028) to authorize the Secretary of Agriculture to exchange certain National Forest System lands in the Targhee National Forest.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

EXCHANGE AUTHORITY

SECTION 1. Notwithstanding the requirements contained in section 1 of the Act of March 20, 1922, and that portion of section 206(b) of the Act of October 21, 1976, which provides that when the Secretary of Agriculture exchanges lands, the lands exchanged must be located in the same State, and must be included within the exterior boundaries of a National Forest—

(a) the Secretary of Agriculture (hereinafter referred to as "the Secretary") is authorized to exchange those federally owned lands within the Targhee National Forest depicted on the map entitled "Targhee Exchange, Wyoming—Proposed", dated April 15, 1988, comprising approximately two hundred and seventy acres, for nonfederally owned lands within, adjacent, or in close proximity to the Targhee National Forest, including lands outside the exterior boundary of the forest.

(b) the values of lands exchanged by the Secretary under this Act shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances required so long as payment does not exceed 25 per centum of the total values of the lands or interest transferred out of Federal ownership. The Secretary shall try to reduce the amount of payment of money to as small an amount as possible;

(c) the map described in subsection (a) and a legal description of such lands depicted therein, shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agrriculture, Washington, District of Columbia. Such map and legal description shall have the same force and effect as if included in this Act: Provided, That actual acreage and boundaries may be adjusted to equalize values and the correction of clerical and typographical errors in such legal description may be made by the Secretary; and

(d) any lands acquired by the Secretary under this Act shall become part of the Targhee National Forest and the exterior boundary of the Targhee National Forest shall be revised to include such lands.

SAVINGS CLAUSE

SEC. 2. Except as specified in section 1, this Act shall not be construed as modifying any other requirements of existing law or regulations.

TIME LIMIT

SEC. 3. As soon as practicable, but not later than nine months after the date of enactment of this Act, the Secretary shall carry out the exchange authorized by section 1.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4028, introduced by Mr. STALLINGS, passed by the House in May and now passed by the Senate with a few technical amendments, would authorize the Secretary of Agriculture to exchange approximately 270 acres in Wyoming needed by the Grand Targhee Resort for private lands inside or outside the national forest boundary in Idaho. It is anticipated that approximately 700 acres of lands along the South Fork of the Snake River would become national forest. Legislation is necessary for such an exchange because the Federal Land Policy and Management Act prohibits national forest land exchanges across State lines.

We received testimony that the bill would help the local economy grow by enabling the Grand Targhee Resort to expand creating jobs and increasing tourism. It also would protect critical wildlife habitat and valuable outdoor recreation lands along the South Fork. This spectacular river canyon with large old growth cottonwoods provides habitat for over 50 species of mammals and 180 species of birds including nesting sites for bald eagles, great herons, and Canada geese. Large cutthroat and brown trout are part of a renowned fishery. Some of these environmentally sensitive lands are scheduled for development. This bill would protect the wildlife habitat and public access for recreation by allowing some of the private lands immediately adjacent to the national forest boundary to become national forest on a willing seller basis. Grand Targhee Resort would purchase the lands and then exchange them for the national forests lands in and around its operation. The Senate amendments to the House-passed measure are simply reworded and phrase reordering in the amendment process no substantive changes are included and the House should accept these minor changes and send this to the President for his signature.

Mr. Speaker, I urge my colleagues to support this bill that protects the land and environment while at the same time benefiting the people of Idaho economically.

Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. I thank the gentleman for yielding time to me.

Mr. Speaker, it is with great pleasure that I rise to speak in strong support of H.R. 4028, the Targhee National Forest Land Exchange Act, a bill which I introduced last February. I am very pleased that my distinguished colleague from Wyoming, Mr. CHENEY,

is a cosponsor of this important legislation.

Earlier this year, I unveiled a plan to help safeguard several critical areas along the South Fork of the Snake River located in Idaho. At the same time, the proposal will help stimulate economic development in the Upper Snake River Valley and Teton Basin.

The plan calls for a major land exchange between the Targhee National Forest and the Grand Targhee Resort. If enacted, the bill will give the resort an opportunity to acquire additional land for expansion and development.

Legislation to implement this proposal is necessary for two reasons. First, current law prohibits the Forest Service from trading lands in different states. The privately owned land is in Idaho and the Forest Service property is located just inside the Wyoming border.

Second, a bill also is required since the exchange would involve private lands outside the existing Targhee National Forest boundary.

The legislation also enjoys strong, bipartisan support. On May 24, the House of Representatives unanimously approved this bill. Now, after four months of deliberation, the Senate took final action on the measure last Thursday. In its approval, the Senate adopted a technical amendment which I can support.

This bill is of extreme importance to many people who live in the Upper Snake River Valley and Teton Basin country. There is a real need to revitalize the region's economy. Recreation and tourism are becoming a vital, growing part of our State economy.

Development of the Grand Targhee Resort and protection of the South Fork could attract thousands of visitors each year to eastern Idaho and help strengthen the economy of many Idaho communities.

This plan and legislative initiative are the result of a dedicated effort from many people. Special recognition and thanks to Mory Bergmeyer, John Sessions, John Burns, Bruce Bugbee, and many others who played an important role in the process.

I also want to take this opportunity to express my personal appreciation to two outstanding subcommittee chairmen, Mr. VENTO and Mr. VOLKMER, for their help and support. It has been a real pleasure working with them and their fine staff on this bill.

The completion of this land exchange will result in a needed economic shot-in-the-arm to the Teton Basin. It also recognizes the importance of protecting one of Idaho's natural treasures, the South Fork of the Snake River.

I believe this proposals truly represents the best of both worlds and is a win-win project. The public interest will be well served.

House approval today will complete the final chapter of the bill's journey through Congress. I urge my colleagues to support passage of this important measure.

Mr. VENTO. Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to voice our side of the aisle's strong support for the Targhee National Forest Land Exchange. The only reason this legislation was amended in the Senate was to add a time certain for the completion of the exchange. We feel that amendment is appropriate. As was stated when this bill was originally passed by the House, this is a win-win situation. The Grand Targhee ski resort can be expanded and in exchange critical wildlife habitat along the Snake River can be obtained.

The Targhee Forest is a special case, because it is in both Idaho and Wyoming. That is why legislation is needed. The Federal Land Policy and Management Act prohibits exchanges that involve lands in more than one State. I also understand the proposed exchange has strong local and general public support in both Wyoming and Idaho.

I urge my colleagues to support this measure because it makes sense. It makes sense from a recreation and environmental standpoint and does so without an appropriation from the treasury.

Finally, the administration has no objections to the passage of this bill and I recommend that all Members support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to thank my counterpart on the Agriculture subcommittee, the gentleman from Missouri [Mr. VOLKMER] and the full Committee on Agriculture for their cooperation in processing this bill.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 4028, as amended by the Senate, and urge its adoption by the House.

H.R. 4028, would authorize the exchange of certain National Forest System lands in the Targhee National Forest in Idaho and Wyoming. This exhange involves the transfer of 270 acres of land in Wyoming for certain private lands in or adjacent to the Targhee National Forest in Idaho. Current law prohibits the exchange of national forest lands between States and requires that the lands be included within the exterior boundaries of a national forest.

Mr. Speaker, this bill will benefit communities in both Wyoming and Idaho by facilitating the expansion of the Grand Targhee Resort in Wyoming. The developer who seeks to acquire the tract of land in Wyoming will in turn aid in securing several areas along the South Fork of the Snake River in Idaho. These private tracts are highly desired to protect the unique qualities of this portion of the Snake River.

H.R. 4028 passed the House in May 1988. The bill, with certain clarifying amendments, was adopted by the Senate on September 29, 1988.

Mr. Speaker, H.R. 4028, as amended, is a measure that represents the product of an effective partnership between government and private enterprise. This bill will benefit the economy of communities in Idaho and Wyoming while serving to protect important segments of the Snake River. The success of this measure is a tribute to the effective leadership of our colleague from Idaho, Hon. RICHARD STALLINGS.

I encourage the Members of the House to support H.R. 4028, as amended by the Senate.

Mr. MORRISON of Washington. Mr. Speaker, I rise in support of the bill H.R. 4028, sponsored by Mr. STALLINGS and Mr. CHENEY, as amended by the other body. This legislation authorizes the Secretary of Agriculture to exchange 270 acres of land in the Targhee National Forest in Wyoming for private lands in, adjacent to or in close proximity of portions of the Targhee located in Idaho.

The purpose of this bill is to allow for expansion of the facilities at the Grand Teton ski area. Successful ski areas across the country, but particularly in the West, are a combination of private lands and National Forest lands. The most successful ones have ski lifts and runs on public lands and base facilities on private lands. Having the base facilities on private lands facilitates real estate development and other commercial operations, thus providing additional employment.

In the trade, the Forest Service hopes to acquire some property along the South Fork of the Snake River—land the Service considers desirable to help preserve fish and wildlife habitats, scenic qualities and public access to the river.

The Department of Agriculture does not have and has no sought authority to permit exchanges which acquire private lands outside the boundaries of national forests because of management problems this might pose. I would like to state for the record that as far as this Member is concerned, passage of this legislation represents a temporary departure from policies the Subcommittee on Forests, Family Farms, and Energy has tried to establish with respect to land exchanges—this bill is an exception. The legislation received widespread support at hearings in Idaho this spring. This exchange will be good for the area involved. It will boost the local economy and expand recreational opportunities.

I support passage of H.R. 4028, as amended, and urge my colleagues to do the same.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4028.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

WINDING STAIR MOUNTAIN NATIONAL RECREATION AND WILDERNESS AREA ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4354) "An act to designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System, create the Winding Stair Mountain National Recreation and Wilderness Area, and for other purposes."

The Clerk read as follows:

Senate Amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) select areas of undeveloped National Forest System lands in the State of Oklahoma possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) and other studies of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the Department of Agriculture's second roadless area review and evaluation, of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values, and which should not be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws;

(4) many areas of the Ouachita National Forest possess qualities that can only be expressed and utilized in such a manner that designation of such areas as a national recreation area is appropriate for the maximum potential and enjoyment of the area by the American people;

(5) select areas possess unique plant and tree species and plant communities that are significant in their occurrence, variety and location and warrant designation as botanical areas; and

(6) select areas possess unique scenic and wildlife qualities that designation of such areas as a national scenic area and a national scenic and wildlife area is appropriate for the preservation of the natural beauty and wildlife habitat for the enjoyment of the American people.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Oklahoma as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and to ensure that certain other National Forest System lands in the State of Oklahoma be available for nonwilderness multiple uses; and

(2) designate certain National Forest System lands in the State of Oklahoma as a national recreation area, 2 botanical areas, a national scenic area, and a national scenic and wildlife area in order to enhance and further certain natural resources characteristics.

SEC. 3. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.

In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) the following lands in the State of Oklahoma are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 4,583 acres, as generally depicted on a map entitled "Black Fork Mountain Wilderness—Proposed", dated March 1988, and which shall be known as the Black Fork Mountain Wilderness.

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 9,371 acres, as generally depicted on a map entitled "Upper Kiamichi River Wilderness—Proposed", dated March 1988, and which shall be known as the Upper Kiamichi River Wilderness.

SEC. 4. MAPS AND DESCRIPTIONS.

As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 5. ADMINISTRATION.

Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 3 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 6. WILDERNESS REVIEW.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Oklahoma and of the environmental impacts associated with alternative allocations of such areas.

(b) CONGRESSIONAL DETERMINATION AND DIRECTION.—On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II Final Environmental Impact Statement (dated January 1979) with respect to National Forest System lands in States other than Oklahoma, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Oklahoma;

(2) with respect to the National Forest System lands in the State of Oklahoma which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Oklahoma reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, except that such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Oklahoma are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of the National Forest System lands in the State of Oklahoma for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) USE OF TERM.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) APPLICATION OF PROVISIONS.—The provisions of this section shall also apply to:

(1) those National Forest System roadless lands in the State of Oklahoma in the Ouachita National Forest which were evaluated in the Rich Mountain and Beech Creek unit plans; and

(2) National Forest System roadless lands in the State of Oklahoma which are less than five thousand acres in size.

SEC. 7. ADJACENT MANAGEMENT.

Congress does not intend that designation of wilderness areas in the State of Oklahoma lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 8. WINDING STAIR MOUNTAIN NATIONAL RECREATION AREA.

(a) ESTABLISHMENT.—In order to ensure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, there is hereby established the Winding Stair Mountain National Recreation Area located in the Ouachita National Forest, Oklahoma.

(b) AREA INCLUDED.—The Winding Stair Mountain National Recreation Area (hereafter in this Act referred to as the "recreation area") shall comprise approximately 26,445 acres as generally depicted on the map entitled "Winding Stair Mountain National Recreation Area—Proposed", dated March 1988, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture.

(c) MAPS AND DESCRIPTION.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the recreation area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(d) ADMINISTRATION.—The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Management and utilization of natural resources within the recreation area shall be permitted to the extent such management and utilization is compatible with and does not impair the purposes for which the recreation area is established.

(e) TIMBER MANAGEMENT.—Any sales of timber from within the recreation area shall be designed so as to not detract from the scenic values of the recreation area. Management practices that would detract from the scenic quality and natural beauty within view from the Talimena Drive or the Holson Valley Road shall not be conducted in the recreation area. Unevenaged timber management shall be the timber management practice in the recreation area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or allow scenic vistas and recreational development or if such practices result in irregular cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

SEC. 9. BOTANICAL AREAS.

(a) DESIGNATION.—In order to protect and interpret to the public area within the Ouachita National Forest which contain unique plant species and unique plant communities that are significant in their occurrence, variety and location, the following lands are hereby designated as botanical areas:

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately eight thousand and twenty-six acres as generally depicted on a map entitled "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area—Proposed", dated March 1988, which shall be known as the "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area".

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately four hundred acres as generally depicted on a map entitled "Beech Creek Botanical Area—Proposed", dated March 1988, which shall be known as the "Beech Creek Botanical Area".

(b) MAP AND DESCRIPTION.—The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the botanical areas with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) ADMINISTRATION.—The Secretary shall administer the botanical areas in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Except as provided in section 16 of this Act, vegetative manipulation, including the cutting of trees, shall be permitted in such areas only when necessary for the protection and interpretation of the unique plant species and unique plant communities within the area. The Secretary may permit expansion of roads, improvements, and other facilities in the vicinity of the Robert S. Kerr Nature Center.

SEC. 10. INDIAN NATIONS NATIONAL SCENIC AND WILDLIFE AREA.

(a) DESIGNATION.—In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled "Indian Nations National Scenic and Wildlife Area—Proposed", dated March 1988, are hereby designated as the "Indian Nations National Scenic and Wildlife Area" (hereinafter in this Act referred to as the "national scenic and wildlife area").

(b) MAP AND DESCRIPTION.—The Secretary of Agriculture (hereinafter in this section referred to as the 'Secretary') shall, as soon as practicable after the enactment of this Act, file a map and a legal description of the national scenic and wildlife area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) ADMINISTRATION.—The Secretary shall administer the national scenic and wildlife area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Management practices within the national scenic and wildlife area that would detract from the scenic quality and natural beauty of the Talimena Drive and Holson Valley Road viewsheds shall be prohibited. Timber management practices within the national scenic and wildlife area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged timber management shall be the timber management practice in the national scenic and wildlife area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or if such practices result in irregular cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

SEC. 11. BEECH CREEK NATIONAL SCENIC AREA.

(a) DESIGNATION.—In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled "Beech Creek National Scenic Area—Proposed", dated March 1988, are hereby designated as the "Beech Creek National Scenic Area" (hereinafter in this Act referred to as the "national scenic area").

(b) MAP AND DESCRIPTION.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the enactment of this Act, file a map and a legal description of the national scenic area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same

force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(c) ADMINISTRATION.—The Secretary shall administer the national scenic area in accordance with the laws, rules, and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Timber management practices within the area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged management shall be the timber management practice in the area, except that the Secretary is authorized to use evenaged management practices in order to promote public safety or to mitigate the effects of fire, insects, and disease.

SEC. 12. NOMENCLATURE.

The wilderness areas, the national recreation area, the national scenic and wildlife area, the national scenic area, and the botanical areas designated in this Act shall be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area".

SEC. 13. TIMBER MANAGEMENT REPORT.

The Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate a report on the timber management program on those lands of the Ouachita National Forest located in Le Flore County, Oklahoma, each year after the enactment of this Act for a period of 20 years. Each such report shall include information on timber management practices, sale preparation, harvest levels, reforestation, forest pest and damage problems, multiple use mitigation practices, including wildlife enhancement, recreation, protection of scenery, vegetation conversion, roads, and vegetative cover along streams, roads and trails. The report shall also include an economic impact statement of the Ouachita National Forest in LeFlore County, Oklahoma, on the timber industry and the tourism and recreation industry.

SEC. 14. ADVISORY COMMITTEE.

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), no later than 90 days after the date of enactment of this Act, the Secretary is directed to establish an advisory committee for Ouachita National Forest lands in LeFlore County, Oklahoma. The Committee's purpose shall be advisory in nature and the Committee shall provide information and recommendations to the Secretary regarding the operation of the Ouachita National Forest in LeFlore County. The Committee shall be composed of representatives from the local area in which the Ouachita National Forest is located equally divided among conservation, timber, fish and wildlife, tourism and recreation, and economic development interests.

SEC. 15. PLANNING.

(a) FOREST MANAGEMENT PLAN.—The Secretary shall amend the Ouachita National Forest land and resource management plan to include provisions regarding the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area, and the national scenic area designated by this Act. The amendment shall further the purposes for these areas as specified in this Act and shall be developed in accordance with the provisions of the National Forest Management Act, including provisions for public involvement. The Secretary shall consult with the local advisory committee established under section 14 of this Act regarding the development and implementation of the amendment required under this subsection.

(b) TOURISM AND RECREATION.—The plan shall include a section with provisions to promote tourism and recreation in ways consistent with the purposes for which the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area and the national scenic area are designated.

(c) LOCAL ADVISORY GROUP.—No later than 90 days after the date of enactment of this Act the Secretary shall designate a special advisory group from the local area in which the Ouachita National Forest is located to assist in the preparation of the tourism and recreation section of the amendment as required under subsection (b). The Secretary shall request the group to submit to the Secretary, within 12 months after its designation as an advisory group, a draft for such section. No later than 90 days after receiving such draft, the Secretary shall make any revisions and provide them to the group for review. The Secretary shall allow at least 60 days for the group to submit to the Secretary its comments on the revisions. The Secretary shall attempt to resolve any differences prior to his approval or disapproval of the amendment to the forest plan.

(d) AUTHORIZATION.—There are hereby authorized to be appropriated not to exceed $15,000,000 for tourism and recreation improvements related to the Winding Stair Mountain National Recreation and Wilderness Area in Ouachita National Forest in LeFlore County, Oklahoma.

(e) IMPLEMENTATION.—The Secretary is authorized and encouraged to seek local nonprofit entities and the private sector for development of tourism and recreation initiatives in implementing the tourism and recreation section of the plan.

SEC. 16. FIRE, INSECT, AND DISEASE.

Nothing in this Act shall preclude the Secretary of Agriculture from carrying out such measures in the recreation area, the national scenic and wildlife area, the national scenic area, or in the botanical areas established by this Act as the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease or for public health and safety. As provided in section 4(d)(1) of the Wilderness Act, the Secretary may take such measures as may be necessary to control fire, insects, and diseases within the wilderness areas designated by this Act.

SEC. 17. GRAZING.

Subject to such limitations, conditions, or regulations as he may prescribe, the Secretary of Agriculture shall permit grazing on lands within the Ouachita National Forest, Le Flore County, Oklahoma.

SEC. 18. FISHING AND WILDLIFE.

Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to wildlife and fish in the areas designated by this Act.

SEC. 19. PERMITS.

The Secretary shall cooperate with other Federal agencies, with State and local public agencies and bodies, and with private individuals and organizations in the issuance of permits for facilities, services, and recreational facilities in the Winding Stair Mountain National Recreation and Wilderness Area. In issuing such permits, the Secretary is authorized and encouraged to consider local nonprofit entities and the private sector.

SEC. 20. LAND ACQUISITION.

(a) AUTHORITY.—The Secretary of Agriculture is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, any lands or interests therein, which the Secretary determines are needed to establish and manage the Winding Stair Mountain National Recreation and Wilderness Area.

(b) OFFERS.—In exercising the authority conferred by this section to acquire lands, the Secretary of Agriculture shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Winding Stair Mountain National Recreation and Wilderness Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(c) ADDITIONAL FACILITIES.—The Secretary of Agriculture may acquire sites at locations outside such boundaries of the Winding Stair Mountain National Recreation and Wilderness Area, as he determines necessary, for visitor orientation and the establishment of a lodge and additional facilities to enhance the quality of the area.

(d) ADDITIONAL LANDS.—Notwithstanding the limitations contained in section 7(a)(1) of the Land and Water Conservation Fund Act of 1965, the Secretary of Agriculture may acquire by purchase, exchange, donation or otherwise any right, title, and interest in lands in Le Flore County, Oklahoma, which are outside the boundaries of the Ouachita National Forest. No such right, title or interest may be acquired without the consent of the owner thereof. All lands and interests therein acquired under this subsection shall be administered by the Secretary of Agriculture in accordance with the Act of March 1, 1911, commonly referred to as the Weeks Act (36 Stat. 961) and in accordance with the laws, rules, and regulations generally applicable to units of the national forest system. The Secretary of Agriculture shall extend the boundaries of the Ouachita National Forest to include such lands.

SEC. 21. ACREAGES.

The acreage specified in this Act is approximate and in the event of discrepancies between cited acreage and the lands depicted on reference maps, the maps shall control.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4354, would enhance and protect the Ouachita National Forest in Oklahoma. The bill would accomplish this in the following ways:

First. It would establish several special designations which give these lands more protection than if they were to remain general national forest lands. These designations are the Black Fork Mountain and Upper Kiamichi Wilderness Areas, the Winding Stair Mountain National Recreational Area, the Beech Creek and Robert S. Kerr Botanical Areas, the Indian Nations National Scenic and Wildlife Area, and the Beech Creek National Scenic Area.

Second. The bill would require the Forest Service to establish a local advisory group to assist with the planning of these new areas.

Third. It would require uneven-aged timber management inside the national scenic areas and the national recreation area. This would result in a mixed conifer-hardwood forest that will provide wildlife and scenic benefits as well as economic ones.

Fourth. It would authorize the Forest Service to acquire some lands outside the existing national forest boundary on a willing seller basis. This land would allow some of the multiple use activities curtailed by the wilderness designations to continue.

Fifth. The amendment would require the Forest Service to submit an annual report to Congress summarizing the timber program for this portion of the Ouachita National Forest. This should help prevent some of the insensitive timber management practices that have occurred in the area, in the past, from happening again in the future.

Mr. Speaker, this bill introduced by Mr. Watkins, passed the House in August. The Senate, however, has adopted some amendments which are worthy of our support. They include:

First. An economic analysis to be part of the annual report on the timber program.

Second. The establishment of a second local advisory group to provide recommendations on the operations of the national forest lands in Leflore County.

Third. Language that authorizes the Forest Service to control fire, insects and diseases inside the wilderness areas only in ways consistent with the Wilderness Act.

Fourth. Language that clarifies that the bill's $15 million authorization would be spent on improvements for recreation and tourism.

I concur with these amendments and urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. WATKINS]. And I commend my colleague from Okahoma for his good and diligent work. He has done a fine job.

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Speaker, the legislation before us, H.R. 4354, the Winding Stair Mountain National Recreation and Wilderness Area Act, would not be possible today without the assistance of Chairman BRUCE VENTO, Committee on Interior and Insular Affairs, Subcommittee on National Parks and Public Lands; Chairman HAROLD VOLKMER, House Agriculture Committee, Subcommittee on Forests, Family Farms, and Energy; full committee Chairman Mo UDALL and Chairman KIKA DE LA GARZA; and all the staff involved including Dale Crane, Jim Bradley, Jim Lyons and Tim DeCoster.

I also want to express my appreciation to Senators BOREN and NICKLES and staff members Dan Webber and Hazen Marshall for all their hard work as well.

Mr. Speaker, a special thank you and tribute goes to my staff members Paul Jackson and Kim Adams for their untiring efforts, dedication and assistance in helping me prepare this bill.

Mr. Speaker, a legislative miracle truly has occurred in recent months, since the legislative process for this bill began upon introduction March 31, 1988. Without all of the aforementioned individuals' assistance, this bill would not have been ready for its final consideration today.

And, most importantly, I want to thank the people of LeFlore County, OK that participated in the democratic process by coming to Washington to testify, participating in local meetings, telephoning, and writing letters. This bill as an example of the democratic process in action. Area residents recognized problems in the way one agency was doing business and brought their message to Washington. The people of LeFlore County have been heard and justice served.

This is a great day for Oklahoma. It is today that the direction of the future of the Ouachita National Forest in LeFlore County, OK is determined and the day that a tourism and recreation opportunity is given for the further economic benefit to the county and this great State. It is up to us, the citizens of the Third District, to have the vision to develop a plan in cooperation with the U.S. Forest Service to make it happen.

The legislation before us today will allow opportunities for an area that has long been ignored for tourism and recreation development from both the Service and the State of Oklahoma. The bill contains provisions that has the potential for bringing new and needed revenue to the low income economic depressed area of Oklahoma. The people of LeFlore County now will have a chance at a viable new economic development industry.

The final passage of H.R. 4354, the Winding Stair Mountain National Recreation and Wilderness Act, by the House is the culmination of hundreds of hours of work over the last years to arrive at legislation that will determine the future of U.S. Forest Service lands in LeFore County, OK.

This bill is one of delicate balance and was crafted as a result of local hearings, hearings in Washington, formal and informal meetings, field visits to the forest and one-on-one conversation with interested parties. It is a sensible balance between the needs to preserve in a pure state some of the undeveloped lands while also accomodating the economic needs of the area, State, and Nation.

The bill provides for the interests of loggers, environmental groups, wildlife groups, soil conservation groups, tourism and recreation interests, economic development interests, local civic organizations, local and State elected officials, and local school system officials.

In looking at legislation we had several items to be considered—the possibility of preserving areas for wilderness as proposed under the RARE II study, unrest among the local citizenry over U.S. Forest Service timbering practices, tourism and recreation development of the area, and preservation of existing revenues from timber to the local economy. The package before us today addresses each of these issues and is supported by the local people.

The legislation should result in little or no loss of revenues from Federal receipt sharing because the wilderness area involved is such a small part of the total 1,591,849 acres in the Ouachita National Forest in Arkansas and Oklahoma. Changes in management should have no impact as long as timber receipts continue at current levels in other parts of the Ouachita.

Tourism and recreation enhancement to the area will bring revenue to the local area to boost local earnings. LeFlore County is becoming a major attraction for business and industry in the northern part of the county while the southern part of the county offers the most unique tourism and recreation opportunities will attract more business and industry who look for these kind of opportunities before lo-

cating in a area. Area's that are not crucial to a viable tourism industry are available for commercial timber activities. LeFlore County has the kind of combination that most counties desire in attracting business and industry.

Specific principal provisions of the Winding Stair Mountain National Recreation and Wilderness Area Act are as follows: 48,000 acres are designated as national wilderness, botanical, and recreation areas, including Black Fork Mountain Wilderness, 4,583 acres; Upper Kiamichi River Wilderness, 9,371 acres; Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area, 8,026 acres; Beech Creek Botanical Area, 400 acres; and Winding Stair Mountain National Recreation Area, 26,445 acres.

The bill designates a 8,026-acre Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area which would encompass the existing acreage at the arboretum and adds Rich Mountain—considered for wilderness—which contains unique plant species and vegetation similar to that contained at the arboretum. The bill does not change the way the arboretum is now managed. No commercial of Federal timber harvesting will be permitted on this tract, although mechanized cutting for trail building shall be allowed. Improvements and expansion of roads and facilities shall be permitted in the vicinity of the Kerr Nature Center. It is envisioned that roads and facilities expansion would be limited to the current tract designated as the Kerr Arboretum and Nature Center and not into the Rich Mountain addition.

And 48,000 additional acres are designated as national scenic and wildlife areas; the Indian Nations National Scenic and Wildlife Area; 41,051 acres and Beech Creek Scenic Area, 7,500. Unevenaged management will be used in these areas as well as the Winding Stair Mountain National Recreation Area. Exceptions for evenaged management are permitted in all three areas to promote public safety, mitigate the effects of fire, insects, and disease. Evenaged managed irregular cuts for wildlife are allowed in the scenic and wildlife area and in recreation areas that are hidden from view from Talimena Drive and Holson Valley Road by geographical barriers. Evenaged cuts are also allowed for scenic vistas and recreational development within the national recreation area.

Timber management practices in these areas will promote mixed hardwood and conifer forests with species and ages classes mixed as closely as possible to nature, including significant mast production and den trees for wildlife.

Accompanying report language, expressing the intent of Congress, defines unevenaged management and recommends that the Service work closely with the public and the local advisory committee to develop timber management guidelines and other policy for the designated areas and for the general national forest lands in LeFlore County that are not within any of the special designations established by this act.

The Secretary of Agriculture will name a special advisory group from the local area to assist in drafting a developed recreation and tourism action plan amendment to the tourism and recreation section of the forest plan. The report suggests several local groups that could be considered for the group. One State agency is listed as a possible participant of the group with all others being from the local area with particular expertise in economic development.

This group would not deal with any broad goals of management. A second advisory group would provide information and recommendations to the Secretary regarding the operations of the Ouachita in LeFlore County. The committee shall be composed of representatives from the local area divided equally among conservation, timber, fish and wildlife, tourism, and recreation and economic development interests.

A special 20-year report will be given to the Congress concerning activities in the Ouachita in LeFlore County. In addition to conservation concerns the report will include an economic impact of the forest on the timber industry and the tourism and recreation industry. This will allow for the reporting of the positive impact of the forest upon the local economy.

Prior hunting, fishing, and trapping agreements with the State of Oklahoma's fish and game department are left intact.

The bill authorizes $15 million to be appropriated for tourism and recreation improvements related to the bill including the developed recreation plan by the special local advisory group.

The legislation permits the acquiring of sites at locations outside the boundaries of the recreation and wilderness areas for visitor orientation and the possible establishment of a lodge and additional facilities to enhance the quality of the area, as well as on existing forest lands not designated wilderness.

In conclusion, this legislation guarantees an economic return from future timber harvests, while providing for increased tourism and recreational opportunities and the continued preservation of the area's natural beauty for this and future generations.

Without question, this bill has been probably the most difficult piece of legislation on which I have worked during the 12 years I have been in the Congress. However, with passage of this bill it will be one of the most personally satisfying things that I will have accomplished in the Congress.

I have often said that along the way in our enthusiasm to provide opportunities for our people in southeastern Oklahoma, we will error, make mistakes and sometimes fail, but the biggest failure is to do nothing. With the passage of this legislation I can say that we have tried to make an impact and I believe history will reflect that our actions today made a difference in the future economic prosperity of this area.

Mr. Speaker, thank you for this opportunity to speak on behalf of the Winding Stair Mountain National Recreation and Wilderness Area Act. I urge the adoption of the bill and yield back the balance of my time.

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Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it would be impossible for me to add to the eloquent description the gentleman from Oklahoma [Mr. WATKINS] has just given of the natural beauties of this splendiforous part of Oklahoma. I commend the gentleman for the hard work he has done in putting this bill together, and I commend it to all our colleagues.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to again relay my thanks to the gentleman from Missouri [Mr. VOLKMER] and the gentleman from Texas [Mr. DE LA GARZA], our agricultural counterparts, for their work and their cooperation in this matter.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 4354 as amended by the Senate, and urge its adoption by the House.

H.R. 4354 would designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System and establish the Winding Stair Mountain National Recreation Area.

This bill was considered by the House on August 8, 1988. The bill was amended by the Senate to establish an advisory committee to aid in the development of the Ouachita National Forest land and resource management plan and to authorize certain recreation improvements to the Winding Stair Mountain National Recreation and Wilderness Areas.

Mr. Speaker, while the Committee on Agriculture in reviewing H.R. 4354 objected to the establishment of an advisory committee in developing the Ouachita land and resource management plan, I will not oppose the Senate amendment. I would note, however, that the Secretary of Agriculture currently has the authority necessary to establish such advisory groups to aid in the development of national forest management plans.

Mr. Speaker, I commend our distinguished colleague from Oklahoma [Mr. WATKINS] for his leadership in crafting the compromise that

has led us to consider H.R. 4354 today. I urge the Members of the House to support its passage.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4354.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

COASTAL HERITAGE TRAIL IN THE STATE OF NEW JERSEY

Mr. VENTO. Mr. Speaker, I move to suspend the rules and concur in Senate amendments to the House amendments to the Senate bill (S. 2057) to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, and for other purposes.

The Clerk read as follows:

Senate amendments to House amendments:

Page 1, line 2, of the House engrossed amendments, insert "TRAIL" before "ROUTE."

Page 1, line 16, of the House engrossed amendments, insert "Trail" before "Route".

Page 4, line 15, of the House engrossed amendments, insert "Trail" after "Heritage".

Page 4, of the House engrossed amendments, after line 23, insert:

SEC. 7. REVITALIZATION OF OFFICERS ROW, SANDY HOOK, NEW JERSEY.

(a) AGREEMENT WITH STATE.—To further the revitalization, rehabilitation, and utilization of the area known as "Officers Row" located within the Sandy Hook Unit of the Gateway National Recreation Area, the Secretary of the Interior, or his designee, shall enter into an agreement to permit the State of New Jersey to use and occupy the property depicted on the map numbered 646/80,003, entitled "Marine Science Laboratory Land Assignment", dated September 1988, for the express purpose of constructing, developing, and operating, without cost to the National Park Service, a marine sciences laboratory to be known as the "James J. Howard Marine Sciences Laboratory". The design of the new facility, the rehabilitation of Building 74, the design and location of landscaping modifications thereto, shall be reviewed by, and subject to the approval of, the Director of the National Park Service or his designee using the standards for rehabilitation and National Park Service guidelines and policies approved by the Secretary of the Interior.

(b) REVERSION.—If the improvements described in subsection (a) are not used as a marine sciences laboratory by the State of New Jersey, all use of the property and the improvements thereon shall revert, without consideration, to the National Park Service.

Amend the amendment to the title so as to read: "An act to provide for the establishment of the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes."

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, S. 2057 as amended would provide for the establishment of a vehicular tour route over public roads in New Jersey linking natural, cultural, and historical sites along the New Jersey coast. The legislation was initially considered and passed by the Senate on June 8, 1988. The House passed S. 2057, with an amendment on September 13, 1988. Subsequently, the Senate considered S. 2057 on September 30, 1988, and has now returned the measure to the House with amendments to the House amendment.

The Senate amendments which are acceptable to me, would, first, provide that the vehicular tour route established by the legislation would be known as the "New Jersey Coastal Heritage Trail Route." This amendment addresses the concern of the Senate that the legislation include the word "trail," as that was the name with which the project was originally developed and has come to be associated with. The House amendment had provided the legislation would be known as a route, so as to avoid confusion with National Trails System components designated under authority of the National Trails System Act of 1968 (16 U.S.C. 1241-1249). The amended bill before us today will describe the project as a "trail route" and thus addresses the concerns of both bodies regarding the legislation's nomenclature. Second, the Senate amendments include the text of the bill, H.R. 5336, which passed the House on September 22, 1988. This language provides for a special use permit between the National Park Service and the State of New Jersey for a Marine Sciences Laboratory at the Sandy Hook Unit of Gateway National Recreation Area. Concurrence by the House today will complete legislation action on S. 2057.

Mr. Speaker, I support passage of S. 2057, as amended, and urge its adoption.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amended version of S. 2057 before us today. I believe the amendments represent a good compromise on the bill. In addition, the bill recognizes the accomplishments of our distinguished colleague, the late Representative, James Howard, by naming a marine sciences laboratory at the Gateway National Recreation Area, in his memory.

I urge my colleagues to support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and concur in the Senate amendments to the House amendments to the Senate bill, S. 2057.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

OMNIBUS INSULAR AREAS ACT OF 1988

Mr. DE LUGO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1047) to amend Public Law 94-241, the joint resolution approving the covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes, as amended.

The Clerk read as follows:

S. 1047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Insular Areas Act of 1988".

SEC. 2. DEFINITION OF FREELY ASSOCIATED STATE.

For the purposes of this Act, the term "freely associated state" means the Federated States of Micronesia, the Marshall Islands, or Palau (when the Compact of Free Association between the Government of the United States and the Government of Palau becomes effective).

SEC. 3. ESSENTIAL SERVICE.

The provisions of Article IX, section 5(a) of the "Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association" are extended until October 1, 1998.

SEC. 4. INSULAR JUDICIARY MATTERS.

JUDICIAL ASSISTANCE.—(1) The Ninth Judicial Circuit of the United States may provide assistance to the courts of the freely associated states. The Chief Justice of the United States or the chief judge of the Ninth Judicial Circuit may, upon the request of a duly authorized official of a freely associated state, authorize any circuit judge of, or district judge within, the Ninth Circuit to serve temporarily as a judge of any court of a freely associated state.

(2) The Congress consents to the acceptance and retention of reimbursement or allowances for expenses related to service on a freely associated state court authorized by this section. All such reimbursement or allowances shall be reported by the judge concerned to the administrative office of the United States Courts.

(3) The President is authorized to enter into agreements with the freely associated states that are necessary or appropriate to facilitate implementation of this section.

SEC. 5. MARSHALL ISLANDS AGRICULTURAL AND FOOD PROGRAMS.

Section 103(h)(2) of the Compact of Free Association Act of 1985 (99 Stat. 1783, 48 U.S.C. 1681) is amended—

(1) by striking out "(either through" and inserting in lieu thereof "(through";

(2) by striking out "United States or" and inserting in lieu thereof "United States, or";

(3) by striking out "firm)" and inserting in lieu thereof "firm, or by a grant to the Government of the Republic of the Marshall Islands)";

(4) at the end of the subparagraph (B), by striking out the period and inserting in lieu thereof "; and";

(5) by adding after subparagraph (B) the following:

"(C) the food programs of the Rongelap and Utrik people.

Any grant to the Government of the Republic of the Marshall islands for the purposes specified in subparagraph (A), (B), or (C) relating to Bikini, Enewetak, Rongelap, or Utrick shall be made in consultation with the local goverment councils and may be conditioned upon a requirement that, where feasible, the services in question shall be provided by a firm which is primarily owned by United States or Marshallese nationals.".

SEC. 6. CONTROLLED SUBSTANCES IN THE FREELY ASSOCIATED STATES.

(a) AGREEMENTS.—The President is authorized to negotiate agreements which provide—

(1) that the United States shall carry out the provisions of part C of the Controlled Substances Act (21 U.S.C. 821 et seq.) as necessary to provide for the lawful distribution of controlled substances in the freely associated states; or

(2) that a freely associated state which institutes and maintains a voluntary system to report annual estimates of narcotics need to the International Control Board, and which imposes controls on imports of narcotic drugs consistent with the Single Convention on Narcotic Drugs, 1961 (signed at New York, March 30, 1961), shall be eligible for exports of narcotic drugs from the United States in the same manner as a country meeting the requirements of subsection (a) of section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953).

(b) EFFECTIVE DATE OF AGREEMENTS.—Agreements concluded pursuant to this section shall become effective pursuant to section 101(f)(5) of Public Law 99-239 or section 101(d)(5) of Public Law 99-658, as may be applicable.

SEC. 7. NORTHERN MARIANAS COLLEGE.

(a) DEPOSITORY.—The Northern Marianas College is hereby constituted a depository to receive Government publications, and the Superintendent of Documents shall supply to the Northern Marianas College one copy of each such publication in the same form as supplied to other designated depositories.

(b) ENDOWMENT.—Section 507(b) of the Education Amendments of 1972 (7 U.S.C. 301 note) is amended—

(1) by striking out ", and Micronesia" each place it appears and inserting in lieu thereof ", Micronesia, and the Northern Mariana Islands"; and

(2) by striking out "and Micronesia." and inserting in lieu thereof "Micronesia and the Northern Mariana Islands."

SEC. 8. INSULAR WASTE CONTROL.

The Commonwealth of the Northern Mariana Islands, America Samoa, Guam, the Virgin Islands, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands may, with the concurrence of the Administrator of the Environmental Protection Agency, each elect in any fiscal year to treat funds made available to them under title VI of the Act of June 30, 1984 (Chapter 758; 62 Stat. 1155), as amended, as if such funds were made available under section 207 of such Act for fiscal year 1989. Notwithstanding any other provision of law, funds subject to section 207 of such Act by reason of such an election shall not be subject to any of the provisions of title VI of such Act.

SEC. 9. MATCHING FUND REQUIREMENT.

The last sentence of section 501(d) of Public Law 95-134, as amended by Public Law 96-205, as amended, (48 U.S.C. 1469(d)), is amended—

(1) by inserting "any Federal program as it applies in" before "American Samoa"; and

(2) by inserting "or other expenditures" after "funds".

SEC. 10. VIRGIN ISLANDS ORGANIC ACT.

The Revised Organic Act of the Virgin Islands is amended—

(1) in section 24(c) (48 U.S.C. 1614(c)), by striking out "Attorney General" and inserting in lieu thereof "President"; and

(2) by striking out the second sentence of section 25 (48 U.S.C. 1615).

SEC. 11. GUAM PORT DEVELOPMENT.

Section 818(b)(2) of Public Law 96-418 (94 Stat. 1782) (as amended by section 504 of Public Law 98-454 (98 Stat. 1736)) is amended by striking "30 percent" and inserting "50 percent".

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from the Virgin Islands [Mr. DE LUGO] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from the Virgin Islands [Mr. DE LUGO].

GENERAL LEAVE

Mr. DE LUGO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, most Members know that it is the practice to combine a number of relatively noncontroversial proposals regarding the insular areas of or associated with the United States into an omnibus bill each Congress.

In the past, these acts have provided essential assistance to the insular areas and rationalized the treatment of the insular areas under law. Although they have been relatively noncontroversial, these acts have addressed many insular needs that would otherwise be overlooked.

The very serious issues involved in the Palau compact of Free Association legislation have preoccupied the attention to insular matters of the Committee on Interior and Insular Affairs and our counterpart committee on the other side of the Capitol this Congress. The administration's recent decision to support the fundamental provisions of the Palau resolution that I have sponsored along with 64 other Members has, however, made passage of an omnibus insular areas bill a possibility this year.

S. 1047, as it would be amended, includes provisions approved by the Interior and Insular Affairs Committee late last year as well as other provisions that would address a number of needs that should be acted upon.

The subcommittee in Insular and International Affairs, which I chair, developed this legislation in consultation with the minority, insular representatives, other committees, and both other branches of Government.

The bill would not have a significant budget impact and the administration has cleared its provisions in almost all respects.

At this point, I would like to acknowledge the cooperation I have received from the subcommittee's ranking Republican, our colleague BOB LAGOMARSINO. I would also like to note the contributions made to this legislation by the distinguished Resident Commissioner of Puerto Rico, JAIME FUSTER; the able Delegate of Guam, BEN BLAZ; and our former colleague from American Samoa, Fofo Sunia, who did so much for his people while a Member of the House.

Let me now outline what this legislation would accomplish.

Section 1 would be the act's short title: The Omnibus Insular Areas Act of 1988.

Section 2 would define the Federated States of Micronesia; the Marshall Islands; and Palau, when and if the Compact of Free Association with Palau goes into effect, as freely associated states.

Free association is one of three future political statutes for a territory approved by the United Nations. The others are integration into a country, which in the case of our Nation would be statehood, and independence.

Free association itself means that the State involved possesses sovereignty but has freely agreed to let another State exercise some aspects of that sovereignty. In the case of the United States free association with the Federated States and the Marshalls—and possibly Palau in the future—this consists primarily of the islands being self-governing in all matters other than those affecting security, for which the United States retains responsibility.

The freely associated states are currently eligible to participate in the essential air service program. The U.S. agreement with them applying the program expires later this month.

Section 3 would authorize it to be extended 10 years. Air service over the vast expanses of the Pacific is an economic and social lifeline for the peoples of remote islands. It is important in terms of the U.S. defense responsibilities provided for under the compacts.

During the period of U.S. trusteeship administration of the freely associated states, Federal judges would serve temporarily as judges of the courts of the trust territory. This practice provided a full complement of judges not practical to maintain in small island communities.

Officials of the freely associated states believe that this assistance is still needed, even though the states are self-governing. The Judicial Conference agrees and has proposed the basis of section 4.

This section would authorize the temporary assignment of judges of the Ninth Judicial Circuit to freely associate state courts upon the request of the states.

It is assumed that such assignments will be arranged in a manner consistent with constitutional requirements of both the United States and the state involved. In the case of the United States, this does not require that the arrangements be made by the executive branch in light of the foreign policy powers of the President. To suggest that it should would be to propose the executive, a political branch, should encroach upon the independence of the judiciary.

The government-to-government contacts required can be satisfied by contacts between judiciaries.

It may be helpful, however, for there to be executive-to-executive understandings reached concerning this assistance. The language provides for this.

No one is more responsible for the provisions of section 4 than the newest Associate Justice of the Supreme Court, the Honorable Anthony M. Kennedy. He developed these provisions as Chairman of the Pacific Territories Committee of the Judicial Conference.

I am delighted that he has asked to stay on as chairman of this committee. He is especially understanding of the needs of the unique judicial relationships that the United States has with the insular areas. He is dedicated to preserving the rights of the powerless peoples of the insular areas.

Administrative office of the U.S. Courts Counsel Christy E. Massie also helped develop these provisions. I appreciate her contributions to them.

Finally, I would like to note that the Committee on the Judiciary has an obvious interest in this matter. This legislation would not be possible without the cooperation of the very distinguished chairman, whom we shall all miss in the next Congress, our colleague PETER RODINO. The Chairman of the Subcommittee on the Courts, Civil Liberties, and the Administration of Justice, our colleague BOB KASTENMEIER, also contributed to it.

Section 5 would authorize the agricultural and food programs for the peoples of Bikini and Enewetak Atolls that were authorized by the compact of Free Association Act to be provided by a United States or Marshallese contractor through a grant to the government of the Marshall Islands.

It would also authorize the food programs for the peoples of Rongelap and Utrik atolls to continue to be provided on the same terms that apply to the programs for the peoples of Bikini and Enewetak.

I understand that some administration officials object to the continuation of these programs for the peoples of Rongelap and Utrik. However, since the President has just approved the fiscal year 1989 Interior Appropriations bill and this law would also continue these programs, this objection is not persuasive.

This section is included to ensure that the programs are continued for the peoples of Rongelap and Utrik beyond fiscal year 1989.

Section 6 would authorize the President to agree with the freely associated states to continue to have the United States regulate the distribution of drugs to the states or to treat the states as foreign countries for the purposes of such distribution if they agree to international conventions on distribution.

This provision was proposed by the very able President of the Senate of Palau, Joshua Koshiba. He recognized that a freely associated state of Palau might not have the resources or expertise to arrange for proper and safe acquisition of medicines.

Subsection (b) of section 6 provides for submission to Congress of agreements reached under this section.

Section 7 would provide assistance to the Northern Marianas College requested by the representatives in Washington of the commonwealth, the Honorable Froilan Tenorio and the able president of the college, Agnes McPhetres.

Subsection (a) would make the college a Federal depository so that it will be eligible to receive all Federal publications.

Subsection (b) would authorize the college to receive the same endowment authorized for the land grant colleges in the territories, $3 million.

The Omnibus Insular Areas Act of 1986 made the college a land grant institution. Although that law made the college eligible for other benefits of land grant status, it did not provide for this endowment. This provision would correct that omission.

Unlike the States, the waste water systems of the insular areas are far from developed. Insular governments are hardpressed financially to bring these systems up to Federal standards.

The lack of adequate systems poses health hazards and is an impediment to economic development. Special assistance and flexibility in applying requirements is clearly warranted.

The revolving fund concept of financing waste water projects is one that does not make sense in the insular areas because of the greater level of need I have noted and because of the structure of insular governments. Insular governments generally develop waste water systems on an insular-wide rather than a local government basis.

Section 8 would authorize insular governments to continue to treat waste water treatment funds as grants—if the Administrator of the Environmental Protection Agency approves—rather than as capitalization for revolving funds.

Omnibus insular areas acts in 1980, 1983, and 1984 have all intended to waive requirements for insular governments to spend funds in order to have any Federal program or project apply to or take place in the islands. These acts are built upon waiver authority contained in Omnibus Insular Areas Acts of 1977 and 1978.

The current law requires the waiver of contribution requirements by American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands of

the first $200,000 of such a requirement per project or program by every Federal agency in each instance where such a requirement could be applied.

The primary reason for the waiver is to ensure that insular areas are not prevented from participating in programs or that projects are not prevented because of the fiscal inability of the insular government to make a contribution. The burden of having to make such a contribution—whether on a matching or any other basis—is intended to be alleviated.

An additional reason for the waiver is that such a large proportion of insular budgets are made up of direct or indirect Federal support that the purposes of local contribution requirements are often contradicted in insular circumstances.

In spite of this, from time to time agencies misunderstand Congress' intent. Some have tried to interpret the waiver as not applying to their programs or projects for one reason or another.

One reason given has been that the local contribution requirements involved were not really "matching" requirements. Another is that the waiver would shift costs to the Federal Government and that it was not intended to apply to open-ended state plan programs, such as the Child Support Enforcement Program.

Congress has had to act to clarify that the waiver applies to specific programs, as it did in the case of Corps of Engineers projects. It should not, however, continue to have to do this to clarify intent.

Although the budgetary impact of this waiver is nonexistent or slight, the intent is that the waiver be applied across-the-board for all projects and programs regardless of the cost.

The intent of section 9 is that any requirements for insular spending under any Federal program or project be waived to the extent of $200,000 annually. Let us hope that we do not have to revisit this issue again, except for the purpose of adjusting the amount of the waiver.

Section 10 would amend the Revised Organic Act of the Virgin Islands in two respects.

One amendment would provide for the President to appoint the U.S. Marshal for the Virgin Islands.

The President appoints U.S. Marshals in other places in the Nation; there is no apparent reason that the Attorney General appoints the Marshal in the territory that I represent.

I understand that some administration officials object to this amendment and want the Attorney General to continue to appoint U.S. Marshals in the Virgin Islands and appoint all other U.S. Marshals as well.

The U.S. Marshal for the Virgin Islands should be equivalent to that for any other part of the Nation. The objection is too persuasive.

The other amendment would authorize the U.S. District Court for the Virgin Islands to sit anywhere in the territory. The requirement in current law that the court's division for St. Thomas and St. John only sit in Charlotte Amalie and the division for St. Croix only sit in Christiansted is anachronistic and unnecessarily limiting. It could prevent construction of Federal buildings in the most appropriate location.

In 1980, Congress directed the transfer of 927 acres at Guam's main port, Cabras Island, from the Navy to the territory to assist in the port's economic development.

Unfortunately, the property was not developed because of the requirement that the territory pay any proceeds received from the sale or lease of the property to private parties over to the Federal Government.

The Omnibus Insular Areas Act of 1984 amended this requirement to authorize Guam to use up to 30 percent of the proceeds to day for development costs. Unfortunately, development still has not been able to occur.

Section 11 would amend the limitation on the amount of the proceeds Guam may use for development costs—and does not have to pay to the Federal Government—to 50 percent.

Delegate BLAZ has worked out this amendment with the sponsor of the limitation, Chairman JACK BROOKS of the Committee on Government Operations. We hope that it will result in development of the property.

The provisions that I have described do not include the Senate's purpose in passing the legislation. It was to clarify that certain residents of the Northern Mariana Islands are U.S. citizens by virtue of Public Law 94-241. That law approved the covenant to make the islands a commonwealth in union with the United States.

I agree that the people involved are intended to be U.S. citizens. This was made clear at a hearing I conducted in May 1987 on an administration bill to make them citizens.

I also believe that the administration's refusal to recognize many of these people as citizens was unfair and a disservice to the Nation.

In making this criticism, I want to recognize that there were some in the administration who tried to correct this problem.

It has, however, been corrected by the wise decisions of the thoughtful judge of the U.S. District Court for the Northern Mariana Islands, Alfred Laureta. He has ordered that U.S. citizenship be recognized.

S. 1047 was referred to the Judiciary Committee as well as the Interior and Insular Affairs Committee. I agreed with Chairman ROMANO MAZZOLI of the Subcommittee on Immigration, Refugees, and International law that, although it was well-intended, the bill should not be needed.

Thus, the Senate-passed legislation is just being used as a vehicle for the other provisions that I have described. I appreciate the cooperation of Chairman RODINO in this respect and want to recognize that consideration of this legislation is without prejudice to the interests of the Judiciary Committee.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation which has been developed with the administration in a bipartisan manner. The various provisions in the legislation are important to the people of the U.S. insular areas and the freely associated states of Micronesia. Most of these provisions do not involve the outlay of any funds, yet they increase the quality of life in the areas of education, health, transportation, and judicial matters,

I urge my colleagues to support this measure.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the legislation which is important to the people of the U.S. insular areas and the freely associated states in Micronesia. The provisions of the Omnibus Insular Areas Act of 1988 are for the most part noncontroversial and with minor exceptions, are supported by the administration.

The island areas affected by this legislation are of three types. The first are the territories of the United States which come under the territorial clause of the Constitution, article IV, section 3, clause 2: American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

The second type of island group covered by parts of this legislation is Palau, which the United States administers as the last part of the United Nations Trust Territory of the Pacific Islands. The trusteeship agreement provides the United States with the authority and responsibility for the political, economic, and social development of the people of Palau. With the passage of the Palau Compact of free association in 1986 and soon the implementing legislation, the United States will discharge its responsibility as administering authority. And although Palau's new relationship under the compact appears imminent, the United States continues to be fully responsible for Palau.

And, third, there are certain sovereign island states which are in free association with the United States. They are the Republic of the Marshall Islands and the Federated States of Micronesia. While these two are currently the only states in free association with the United States, Palau will become the third free association state when the compact of free association becomes effective, which hopefully will be soon.

Essential air service to the freely associated states is important to the relationship between the United States and the Marshall Islands and the freely associated states of Microne-

sia. Section 3 of the bill does not require an outlay of any additional funds. It does extend the current essential air service law which will expire this month if this provision does not become law. In addition to the positive impact on our relationship with the island, a continuation of essential air service will be very important to the U.S. civilian and military personnel working at the Kwajalein missile testing facility in the Marshall Islands.

An additional 2,000 people are expected to work on Kwajalein in the coming years. Although the people there do rely on military transport for the movement of personnel and supplies, regularly scheduled commercial service will be very helpful to the base. People, mail, and goods need to flow in and out of Kwajalein. The guarantee of essential air service by commercial airlines may preclude an increase of military cargo and passenger flights and thereby produce a savings to the U.S. Government. This provision will benefit the United States by improving our relations with the islands, meeting a growing need of strategic interests, and saving money on transportation requirements best met by the private sector.

I want to acknowledge the deep interest and involvement of Supreme Court Justice Anthony M. Kennedy in the development of the provisions regarding judicial matters in the Pacific Islands. Justice Kennedy headed a Pacific Islands judicial conference in American Samoa which dealt with specific judicial issues in the islands. I am pleased that we have a Supreme Court Justice that is intimately familiar with the islands and their special judicial needs.

The provision dealing with judicial matters is intended to enable judges of the ninth judicial circuit to serve as judges of the courts of the freely associated states. This type of assistance has been provided to the courts of the merging freely associated state governments by judges from the courts of U.S. jurisdictions in the region over the years, and has proven valuable to these governments during the transition from trusteeship to self-government.

However, the process for making U.S. judges available to the freely associated states in the post-trusteeship period may not be identical to the process for providing such assistance previously. Because of the new status of the freely associated states as sovereign and self-governing, both the United States and freely associated state governments may have to adopt new procedures to ensure that in making arrangements for this type of judicial assistance their respective constitutional processes are observed. This provision creates authority for judicial assistance, but recognizes that appropriate procedures, including treaty arrangements if determined to be necessary, will have to be decided upon as this provision is implemented. Consultations between the judicial and foreign policy elements of our Government should be undertaken to ensure that this provision is implemented with due regard for the political and legal distinctions between a freely associated state and a U.S. territory or commonwealth.

Another provision which poses no cost to the United States is the section regarding controlled substance in the freely associated states.

The general health needs of the people of the freely associated states could be improved by providing qualified medical officers in the islands with the access to U.S. medicinal drugs. Without the provision of law authorizing the export of controlled substances to a freely associated state, the people there are potentially jeopardized due to the lack of the proper drugs or from the use of outdated or poorly tested substances manufactured without stringent U.S requirements.

The Northern Marianas College has continued to develop over the years. Full accreditation by the Western Association of Schools and Colleges was extended to the Northern Marianas College in 1985. Based in part upon that accreditation, the continuing development of the school facility, the increase in enrollment and graduates, and the strong backing of the local government, Federal land grant status was extended to the college in 1986. The school has continued to progress and become a key component of the community by offering an array of practical postsecondary and technical courses along with secondary level adult education classes. The Northern Marianas College is ready for and needs the same endowment that was provided to the other land grant institutions in the Pacific. This legislation would authorize an endowment to the college. There is a tremendous potential for the college to assist the people to develop their skills through technical and postsecondary education in order for them to contribute to the expanding economy of the islands. The college is already providing the opportunities for the people to study in the Northern Marianas, rather than having to study elsewhere.

I want to commend the president of the Northern Marianas College, Agnes M. McPhetres, for the excellent leadership she has shown through the years. It has been through her determined efforts that the dramatic progress has been made. The establishment of an endowment would provide a perennial boost to the college and its continuing progress.

Mr. RHODES. Mr. Speaker, I yield back the balance of my time.

Mr. DE LUGO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from the Virgin Islands [Mr. DE LUGO] that the House suspend the rules and pass the Senate bill, S. 1047, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ADDITIONAL AUTHORIZATIONS FOR WEB RURAL WATER DEVELOPMENT PROJECT IN SOUTH DAKOTA

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4267) to authorize additional appropriations for the WEB Rural Water Development Project, South Dakota, authorize the use of Pick-Sloan Missouri Basin electric power by the Lower Brule Sioux Indian Tribe, and to rename certain facilities of the Central Valley Project, California.

The Clerk read as follows:

Senate Amendment:

Page 2, line 10, strike out "Brule," " "and insert "Brule, including the Clark Ranch irrigation development,".

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4267 was passed by the House on May 10, 1988.

The purposes of the bill, as passed by the House, were threefold.

First, the bill would authorize an additional $18,5 million in appropriations to complete construction of the WEB rural water development project, South Dakota.

Second, the bill would authorize the use of Pick-Sloan Missouri Basin electric power on irrigation developments on the Lower Brule Sioux Indian Reservation, South Dakota.

Finally, the bill would rename three facilities of the Central Valley project, California.

When the Senate passed the bill on August 11, they added a technical amendment. The amendment clarified the Pick-Sloan power provision making it clear that this power could be used throughout the reservation.

Mr. Speaker, we have no objection to the Senate amendment and would urge that the House concur in the Senate amendment.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4267, a bill to correct an indexing error that occurred in computing the cost authorization ceiling for the WEB rural water development project in South Dakota.

The House reported the bill in May. The Senate made a technical correction to the House reported bill to make clear that water service may be provided to an area within the reservation that was inadvertently omitted in the House-passed bill.

It is a good bill and is non-controversial.

I urge my colleagues to concur in the Senate amendment to H.R. 4267.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may require to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of H.R. 4267 and urge the House to adopt this legislation as amended by the Senate.

The need for this bill arises from miscalculations made by the Bureau of Reclamation in applying inflation adjustments to figure the level of the funding ceiling for the WEB rural water development project.

The WEB project, authorized in section 9 of the Rural Development Policy Act of 1980, brings clean, safe drinking water to north-central and north-eastern South Dakota. WEB has received continued strong support in Congress since authorization, and H.R. 4267 would ensure that continued support.

Earlier in the year, Bureau of Reclamation analysts discovered that they had inflated the authorized level of the WEB project through application of incorrect inflationary indices. Upon this discovery, the Bureau notified the WEB board of the mistake and took administrative action. These residents would not receive clean drinking water because of this unfortunate action by the Bureau.

It is important to keep in mind that this legislation is not a coverup for a cost overrun. WEB is an excellent example of a federally-authorized project that is on time and under budget. The WEB board played no part in this inflated funding ceiling. The Bureau has admitted its culpability in this case and fully supports H.R. 4267. This legislation merely restores the funding ceiling for WEB to the level previously accepted by Congress, the administration and those affected by the project. With this legislation WEB can be completed.

I thank the committee chairman, the gentleman from California [Mr. MILLER] for his assistance and I thank as well the gentleman from Arizona [Mr. RHODES]. Again, I rise in support of this legislation and urge approval by my colleagues, so that this project may proceed toward completion as Congress intended.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to say in conclusion that I thank all the members of the committee for their help in this matter. Also I wish to again thank the gentleman from South Dakota [Mr. JOHNSON] for bringing this matter to our attention. Obviously, without his persistence this legislation would not be before the Congress at this time.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4267.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

DISAGREEMENT AND CONCURRENCE WITH SENATE AMENDMENTS TO H.R. 2772, MNI WICONI PROJECT ACT OF 1988

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 567) setting forth disagreement with Senate amendments numbered 1 through 8 and concurrence in Senate amendment numbered 9 with an amendment to the bill H.R. 2772, to authorize the Lyman-Jones, West River, and Oglala 51 Sioux rural water development projects.

The Clerk read as follows:

H. RES. 567

Resolved, Upon the adoption of this resolution, the House of Representatives shall be considered to have taken from the Speaker's table the bill H.R. 2772, to authorize the Lyman-Jones, West River, and Oglala Sioux Rural Water Development Projects with the Senate amendments thereto, to have disagreed with Senate amendments numbered 1 through 8, and to have concurred in Senate amendments numbered 9 with an amendment as follows:

The House amendment to the Senate amendment numbered 9: In lieu of the matter proposed to be stricken and the matter proposed to be inserted, strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

Sections 1 through 12 of this Act may be cited as the "Mni Wiconi Project Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are insufficient water supplies available to residents of the Pine Ridge Indian Reservation in South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) Shannon County, South Dakota, one of the counties where the Pine Ridge Indian Reservation is located, is the poorest county in the United States, and the lack of water supplies on the Pine Ridge Indian Reservation restricts efforts to promote economic development on the reservation;

(3) serious problems in water quantity and water quality exist in the rural counties of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota.

(4) the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Pine Ridge Indian Reservation; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Pine Ridge Indian Reservation, and the residents of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties is the Missouri River.

(b) PURPOSE.—The Congress declares that the purposes of sections 1 through 12 are to—

(1) ensure a safe and adequate municipal, rural, and industrial water supply for the residents of the Pine Ridge Indian Reservation in South Dakota;

(2) assist the citizens of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, to develop safe and adequate municipal, rural, and industrial water supplies;

(3) promote the implementation of water conservation programs on the Pine Ridge Indian Reservation and in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) provide certain benefits to fish, wildlife, and the natural environment of South Dakota, including the Pine Ridge Indian Reservation, and

(5) repeal the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program.

SEC. 3. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.

(a) AUTHORIZATION—The Secretary of the Interior (hereafter in sections 1 through 12 referred to as the "Secretary") is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Oglala Sioux Rural Water Supply System, as generally described in the report entitled "1988 Planning Report and Environemental Assessment" and dated February 1988. The Oglala Sioux Rural Water Supply System shall consist of—

(1) pumping and treatment facilities located long the Missouri River near Fort Pierre, South Dakota;

(2) pipelines extending from the Missouri River near Fort Pierre, South Dakota; to the Pine Ridge Indian Reservation;

(3) facilities to allow for interconnections with the West River Rural Water System and Lyman-Jones Rural Water System;

(4) distribution and treatment facilities to serve the needs of the Pine Ridge Indian Reservation, including but not limited to the purchase, improvement and repair of existing water systems, including systems owned by individual tribal members and other residents on the Pine Ridge Indian Reservation.

(5) appurtenant buildings and access roads;

(6) necessary property and property rights;

(7) electrical power transmission and distribution facilities necessary for services to water systems facilities; and

(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Oglala Sioux Tribe and reservation villages, towns, and municipalities.

(b) AGREEMENT WITH NON-FEDERAL ENTITY TO PLAN, CONSTRUCT, OPERATE AND MAINTAIN THE OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.—

(1) In carrying out subsection (a), the Secretary, with the concurrence of the Oglala Sioux Tribal Council, shall enter into agreement with the appropriate non-Federal entity or entities for planning, designing, constructing, operating, maintaining, and replacing the Oglala Sioux Rural Water Supply System.

(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems, including systems owned by individual tribal members and other residents located on the Pine Ridge Indian Reservation.

(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Oglala Sioux Tribe.

(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10 for the Oglala Sioux Rural Water Supply System.

(c) SERVICE AREA.—The service area of the Oglala Sioux Rural Water Supply System shall be the boundaries of the Pine Ridge Indian Reservation.

(d) CONSTRUCTION REQUIREMENTS.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Oglala Sioux Rural Water Supply System shall be planned and constructed to a size sufficient to meet the municipal, rural, and industrial water supply requirements of the Pine Ridge Indian Reservation, the West River Rural Water System, and the Lyman-Jones Rural Water System, taking into account the effects of the conservation plans described in section 5. All three systems may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Oglala Sioux Rural Water Supply System.

(e) TITLE TO SYSTEM.—Title of the Oglala Sioux Rural Water Supply System shall be held in trust for the Oglala Sioux Tribe by the United States and shall not be transferred without a subsequent Act of Congress.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Oglala Sioux Rural Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and,

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days.

(g) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Oglala Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Oglala Sioux Rural Water Supply System, including (but not limited to) operation and management training.

(h) APPLICATION OF INDIAN SELF-DETERMINATION ACT.—Planning, design, construction and operation of the Oglala Sioux Rural Water Supply System within the Pine Ridge Reservation shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638; 25 U.S.C. 450).

SEC. 4. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

(a) PLANNING AND CONSTRUCTION.—

(1) The Secretary is authorized and directed to enter into cooperative agreements with appropriate non-Federal entities to provide Federal funds for the planning and construction of the West River Rural Water System and the Lyman-Jones Rural Water System in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, as described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(2) The Secretary may not provide more than 65 per centum of the total cost of—

(A) the West River Rural Water System, and

(B) the Lyman-Jones Rural Water System, Such Federal funds may be obligated and expended only through cooperative agreements described in subsection (b).

(3) The non-Federal share of the costs allocated to the West River and Lyman-Jones Rural Water Systems shall be 35 per centum.

(b) COOPERATIVE AGREEMENTS.—

(1) The Secretary, with the concurrence of the Lyman-Jones and West River Rural Water Systems, shall execute cooperative agreements with the appropriate non-Federal entities to provide Federal assistance for the planning, design, and construction of the West River Rural Water System and the Lyman-Jones Rural Water System. Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(c) FACILITIES ON WHICH FEDERAL FUNDS MAY BE EXPENDED.—The facilities on which Federal funds may be obligated and expended under this section shall include—

(1) water intake, pumping, treatment, storage, interconnection, and pipeline facilities;

(2) appurtenant buildings and access roads;

(3) necessary property and property rights;

(4) electrical power transmission and distribution facilities necessary for service to water system facilities;

(5) planning and design services for all facilities; and

(6) other facilities and services customary to the development of rural water distribution systems in South Dakota.

(d) SERVICE AREA.—The service area of the West River Rural Water System and the Lyman-Jones Rural Water System shall be as described in the engineering study entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(e) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the West River Rural Water System and the Lyman-Jones Rural Water System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and

(2) final engineering reports have been prepared and submitted to the Congress for a period of not less than ninety days.

(f) PROHIBITIONS ON USE OF FEDERAL FUNDS.—The Secretary may not obligate or expend any Federal funds for the operation, maintenance, or replacement of either the West River or Lyman-Jones Rural Water Systems.

SEC. 5. WATER CONSERVATION.

In order to reduce costs to consumers and to reduce water consumption, the Secretary, prior to obligating any construction funds, shall issue a public notice finding that plans for the rural water systems include prudent and responsible water conservation measures for the operation of such systems where such measures are shown to be economically and financially feasible. The non-Federal parties (including the Oglala Sioux Tribe) participating in the systems shall develop a water conservation plan containing definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives. The provisions of section 210(c) of Public Law 97-293 (96 Stat. 1268) shall apply with respect to the systems.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

(a) OGLALA SIOUX RURAL WATER SUPPLY SYSTEM AND THE WEST RIVER AND LYMAN-JONES RURAL WATER SYSTEMS.—Mitigation for fish and wildlife losses incurred as a result of the construction and operation of

the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction.

(b) OAHE AND BIG BEND DAMS AND RESERVOIRS.—The Secretary, in cooperation with the State of South Dakota and other Federal agencies, shall develop and submit recommendations to the Congress for financing and implementing mitigation plans for fish and wildlife losses incurred as a result of the construction and operation of the Oahe Dam and Reservoir and Big Bend Dam and Reservoir. Such plans shall incorporate the proposal of the United States Army Chief of Engineers as outlined in Design Memorandum M (Gen)-19 of December 1987 for improved management of existing Federal lands, and purchase of single-purpose mitigation lands, such as the Olson and Mudon Ranches, from willing sellers.

SEC. 7. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, or the Lyman-Jones Rural Water System may be used to plan or construct facilities used to supply water for the purpose of irrigation.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in sections 1 through 12 is intended, nor shall be construed, to preclude the State of South Dakota or the Oglala Sioux Tribe from seeking congressional authorization to plan, design, operate, or construct additional federally assisted water resource development projects.

SEC. 9. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—The Systems authorized by sections 3 and 4 of this Act shall utilize power from Pick-Sloan for their operation. This power shall be deemed to be a project use pumping requirement of Pick-Sloan.

(b) POWER TO BE USED.—As of the date of enactment of this Act, power identified for future project use pumping at the Pollock-Herreid Unit of the Pick-Sloan shall be reserved for and utilized by the Systems and made available for the purpose authorized by subsection (a).

(c) RATE.—The rate for project use power made available pursuant to subsection (a) shall be the wholesale firm power rate for the Pick-Sloan (Eastern Division) in effect at the time the power is sold.

(d) ADDITIONAL POWER.—If additional power beyond that made available through subsection (b) is required to meet the pumping requirements of the Systems, the Administrator of the Western Area Power Administration is authorized to purchase the additional power needed under such terms and conditions the Administrator deems appropriate. Expenses associated with such power purchases shall be recovered through a separate power charge, sufficient to recover these expenses, applied to the Systems.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "Systems" means the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System; and

(2) the term "Pick-Sloan" means the Pick-Sloan Missouri Basin Program authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891; commonly referred to as the Flood Control Act of 1944).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) PLANNING, DESIGN, AND CONSTRUCTION.—There are authorized to be appropriated $87,500,000 for the planning, design, and construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System under the provisions of sections 3 and 4. Such funds are authorized to be appropriated only through the end of the ninth fiscal year after which construction funds are first made available. The funds authorized to be appropriated by the first sentence of this section, less any amounts previously obligated for the systems, may be increased or decreased by such amounts as may be justified by reason of ordinary fluctuations in development costs incurred after January 1, 1987, as indicated by engineering costs indices applicable for the type of construction involved.

(b) OPERATION AND MAINTENANCE OF OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of the Oglala Sioux Rural Water Supply System.

SEC. 11. WATER RIGHTS.

Nothing in sections 1 through 12 shall be construed to—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body or surface or ground water, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

(5) affect any water rights or claims thereto of the Oglala Sioux Tribe, whether located within or without the external boundaries of the Pine Ridge Indian Reservation, based on treaty, excutive Order, agreement, act of Congress, aboriginal title, the Winter's doctrine (*Winter's v. United States*, 207 U.S. 564 (1908)), or otherwise. Nothing contained in this section or in section 1 through 12, however, is intended to validate or invalidate any assertion of the existence, non-existence or extinguishment of any water rights, or claims thereto, held by the Oglala Sioux Tribe, or any other Indian tribe or individual Indian under federal or state law.

SEC. 12. REPEAL OF AUTHORIZATION OF APPROPRIATIONS.

(a) POLLOCK-HERREID UNIT.—Section 407 of the Reclamation Authorization Act of 1975 (Public Law 94-228; 90 Stat. 209) relating to the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program is hereby repealed. The Pollock-Herreid Unit shall remain an authorized feature of the Pick-Sloan Missouri Basin Program.

(b) FEASIBILITY STUDIES.—Delete section 3 of Public Law 97-273 (96 Stat. 1181) and substitute in lieu thereof the following: "Sec. 3. The Secretary is authorized, in cooperation with the State of South Dakota, to conduct a feasibility investigation of the alternate uses of facilities constructed for use in conjunction with the Oahe Unit, initial stage, James Division, Pick-Sloan Missouri Basin Program, South Dakota, and to report to the Congress the findings of such study along with his recommendations.".

SEC. 13. GRAND VALLEY PROJECT, COLORADO.

The Secretary of the Interior is authorized to extend the Grand Valley Project Contract No. 6-07-40-P0080, dated April 10, 1986, among the United States, the Grand Valley Water Users Association, Public Service Company of Colorado, and the Orchard Mesa Irrigation District, for a period not to exceed two years to provide for the continued operation of the Grand Valley Power Project.

SEC. 14. VETERAN, WYOMING TOWNSITE.

(a) Notwithstanding any law or court order to the contrary, the Secretary of the Interior shall amend, subject to valid existing rights, the official subdivision survey and plat for the town site of Veteran, Wyoming, to take into account the actual and command use of streets and alleys on such lands for designation as public reservations in accordance with the Act of April 16, 1906 (34 Stat. 116, as amended).

(b) After completion of the work required to amend the town site survey and plat, the title of the United States in and to the public reservation lands shall be patented to Goshen County, Wyoming. Title of the United States in and to a 90 feet by 75 feet lot of approximately .15 acres which is described in the records of the Goshen County, Wyoming, clerk's office as "a tract in southwest corner of town of Veteran, Block 40 in the original town of Veteran," shall be patented to Goshen County Unified School District Number one.

(c) The Secretary is authorized to dispose of federal lands within the town site area by negotiated sale at fair market value or by public sale.

SEC. 15. CONTRACTS WITH THE REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA.

(a) RENEGOTIATION OF CONTACTS.—(1) Notwithstanding any other provision of law, the Secretary of the Interior shall renegotiate the schedules of payment for the lones to the Redwood Valley County Water District which are numbered 14-06-200-8423A and 14-06-200-8423A Amendatory.

(2) Such renegotiated schedules of payment may not take effect until October 1, 1989.

(b) The obligation to repay amounts loaned to the Redwood Valley County Water District, California, pursuant to the original negotiated schedule of payment of a loan specified in subsection (a) is suspended until the renegotiated schedule of payment for that loan takes effect. Any obligation to repay amounts under any such loan which is due, but not paid as of the date of enactment of this Act, is suspended. The renegotiated schedules of payment referred to in subsection (a) shall take into account any obligation suspended by this subsection.

(c) No interest may be charged on any payment under either of the loans specified in subsection (a) which is due but not paid before the renegotiated schedule of payment for such loan takes effect.

SEC. 16. WATER PURCHASE BY LAKEVIEW IRRIGATION DISTRICT, WYOMING.

(a) OPTION TO PURCHASE WATER.—The Secretary of the Interior is hereby authorized and directed to offer annually to the Lakeview Irrigation District, Wyoming, an option to purchase up to 15,000 acre-feet of storage in the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, of which 3,200 acre-feet shall be a firm water supply and the remainder shall be available as needed pending

completion of the Polecat Bench Reclamation Project.

(b) EXERCISE OF OPTION.—The Lakeview Irrigation District may exercise its purchase option only in those water years when there is insufficient yield for the District only after the primary flow rights of the Shoshone Project have been satisfied. Any water purchased by the district pursuant to this section shall be provided through exchange by the Bureau of Reclamation in return for the district's right to continue upstream withdrawals of Shoshone Project water.

(c) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary of the Interior is authorized and directed to waive land classification and related study requirements in connection with any contract entered into pursuant to this section.

(d) STATE LAW.—Any allocation or reallocation from existing uses of water stored in the Buffalo Bill Dam and Reservoir resulting from this section shall be pursuant to the laws of the State of Wyoming.

SEC. 17. NAVY LAND, CALIFORNIA.

Section 2 of the Act entitled "An Act to provide for deferment of construction charges payable by Westlands Water District attributable to lands of the Naval Air Station: Lemoore, California, included in said district, and for other purposes", approved August 10, 1972 (86 Stat. 380), is amended by inserting: "Proceeds from the leases in excess of these needs from lease parcels not within Westlands Water District may be utilized by the Secretary of the Navy to acquire easements in Kings County, California," after "are fully paid.".

SEC. 18. ENERGY PURCHASE FROM SHOSHONE IRRIGATION DISTRICT, WYOMING.

(a) EXTENSION.—The Secretary of Energy, acting through the Western Area Power Administration, is directed to offer an extension of the energy purchase provisions of Article 9 of the contract numbered 2-07-70-PO287 and dated March 15, 1982, to the Shoshone Irrigation District, an irrigation district and municipal corporation organized under the laws of the State of Wyoming. Such extension, if accepted, shall take effect as of April 15, 1988, shall remain in force and effect for a period of five years thereafter, and shall be subject to all of the original conditions, terms, and rates specified in such contract. At the end of the five-year extension, purchases of electric energy under Article 9 of such contract may be extended by mutual agreement between the Western Area Power Administration and the Shoshone Irrigation District for successive one-year intervals at rates for purchase which may not be less than the rates specified in Article 9.

(b) LIMITATION.—In no event shall sales of electric energy to the United States pursuant to subsection (a) be made after September 30, 1999.

SEC. 19. COLORADO COASTAL PLAINS PROJECT, TEXAS, SHAWS BEND DAMSITE.

(a) FINDINGS.—The Congress finds that—

(1) there have been 5 studies of the Shaws Bend site of the Colorado Coastal Plains project, authorized as part of the study for the Texas Basins project under the Act entitled "An Act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource development proposals", approved September 7, 1966 (80 Stat. 707), and

(2) there is no need for the construction of a dam at the Shaws Bend site.

(b) PROHIBITION ON APPROPRIATIONS.—Notwithstanding the first section of such Act and effective after the date of enactment of this Act, no funds may be appropriated for the analysis and study of the Shaws Bend site of the Colorado Coastal Plains project, authorized as part of the study for the Texas Basins project.

SEC. 20. FRANKLIN COUNTY, WASHINGTON ROADS STUDY.

(a) For the purposes of taking actions necessary to protect the county road system in irrigated portions of Franklin County, Washington, within the Federal Columbia Basin reclamation project and which are underlain or adjacent to lands underlain by the unique geological setting identified as the Ringold Formation, the Secretary of the Interior is directed to investigate road instability problems caused by high water tables and landslides, to design corrective actions, and to make recommendations for action.

(b) Funds not to exceed $500,000 are authorized to be appropriated for the investigations directed in subsection (a) of this section, which shall be nonreimbursable, and the Secretary shall submit a report of his findings and recommendations for corrective action to the President and the Congress within three years after the date of enactment of this Act and availability of funds.

SEC. 21. DISTRIBUTION SYSTEM CONTRACTS.

To expedite completion of construction of the irrigation distribution systems of the Maricopa-Stanfield and Central Arizona Irrigation and Drainage Districts, Central Arizona Project, pursuant to Contract No. 4-07-30-W0047, as supplemented, and Contract No. 4-07-30-W0048, as supplemented, the 60-day Congressional review period provided for in the Act of June 13, 1956 (70 Stat. 274) is hereby waived.

SEC. 22. CLOSED BASIN PROJECT AMENDMENTS.

The Reclamation Project Authorization Act of 1972 (Public Law 92-514, 86 Stat. 964), as amended by the Act of October 3, 1980 (Public Law 96-375, 94 Stat. 1505), and by the Act of October 30, 1984 (Public Law 98-570, 98 Stat. 2941), is further amended as follows:

(1) Section 101(a) is amended by striking the phrase "including channel rectification of the Rio Grande between the uppermost point of discharge into the river of water salvaged by the project, and the Colorado-New Mexico State line, so as to provide for the carriage of water so salvaged without flooding of surrounding lands, to minimize losses of waters through evaporation, transpiration, and seepage, and to provide a conduit for the reception of water salvaged by drainage projects undertaken in the San Luis Valley below Alamosa, Colorado,".

(2) Section 101(c) is amended by striking the phrase "Water Quality Act of 1965 (79 Stat. 903)" and inserting in lieu thereof the phrase "Clean Water Act (Public Law 92-500), as amended.".

(3) Section 102(a) is amended by striking the phrase "except channel rectification,".

(4) Section 102 is amended by adding a new subsection (c) at the end thereof to read as follows:

"(c) The Secretary is authorized to acquire water pursuant to the procedural and substantive laws of the State of Colorado from within the Rio Grande Basin in the State of Colorado by purchase, lease, or exchange from willing sellers for the purposes of this Act, provided that—

"(1) such water is obtained, made available, and delivered for project purposes at less cost for operation and maintenance than the same amounts of water can be made available by operation of project pumping facilities and without necessitating the construction of additional physical facilities by the Secretary;

"(2) such water may be used in lieu of water pumped from the project only if the Secretary has complied with all federal, state, and local laws, rules, and regulations which apply to such water or the facilities other than those of the project which develop such water;

"(3) such water is subject to all of the limitations, conditions, and requirements of this Act to the same extend and in the same manner as water pumped by the project; and,

"(4) this authorization shall not entitle the Secretary to obtain such water or any water rights by condemnation or by exercising the power of eminent domain.".

(5) Section 104(b)(2) is amended by adding a new sentence at the end thereof to read as follows: "The Secretary is authorized to negotiate and enter into an agreement with the Rio Grande Water Conservation District which provides for the temporary delivery of project salvaged water to the refuge and the habitat area in those years in which there is not sufficient water to fully satisfy the purposes of both paragraphs (1) and (2) of this subsection.".

(6) Section 104(b)(4) is amended to read as follows:

"(4) For irrigation or other beneficial uses in Colorado: *Provided*, That no water shall be delivered until contracts between the United States and water users in Colorado, or the Rio Grande Water Conservation District acting for them, have been executed providing for the repayment of such construction costs as in the opinion of the Secretary are appropriate and within the ability of the users to pay and for the payment of all of the costs of operation and maintenance which are allocable to the costs of operation and maintenance which are allocable to the production of this priority 4 water.".

(7) Section 109 is amended to read as follows:

"SEC. 109. There is hereby authorized to be appropriated the sum of $94,000,000 (October 1988 prices) for the construction of the Closed Basin Division of the San Luis Valley project, of which amount not more than $31,000,000 may be adjusted plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein, and such additional sums for the operation and maintenance of the project as may be required; *Provided*, That none of the funds authorized herein for construction in excesses of $75,000,000 may be expended by the Secretary unless and until the State of Colorado or a political subdivision thereof has entered into a binding agreement with the Secretary to contribute during construction one-third of the costs of construction in excess of $75,000,000 or $6,000,000, whichever is less. Such agreement shall include a reasonable limitation on administrative overhead expenses charged by the Secretary.".

SEC. 23. BESSEMER DITCH, COLORADO.

The Act of July 9, 1980 (Public Law 96-309, 94 Stat. 940), is amended by adding a section 4 as follows:

"SEC. 4. The Secretary is hereby authorized to undertake the design and construction of approximately 11,000 feet of gunite lining of the Bessemer Ditch in addition to that lining which was constructed pursuant

to section 1 of this Act. There is hereby authorized to be appropriated as the Federal share of costs for the purpose of this section the sum of $1,170,000 (based on August 1988 prices), plus or minus such amounts, if any, as may be justified by reason of changes in construction cost indices applicable to the type of construction involved; *Provided,* That non-Federal interests shall contribute during construction of the additional gunite lining an amount equal to 22 per centum of the total cost of the design and construction of such additional lining. The non-Federal contribution may include cash and in kind contributions and shall not be subject to the conditions of section 2 of this Act. The Secretary is authorized to contract with the Bessemer Irrigation Ditch Company for the construction at cost of the additional gunite lining authorized by this section.".

Amend the title so as to read: "To authorize construction of the Mni Wiconi Rural Water Supply Project, and for other purposes.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2772 would authorize the construction of rural water supply systems to provide reliable and safe drinking water for the Pine Ridge Indian Reservation, and surrounding counties in South Dakota.

The House passed H.R. 2772 on June 28, 1988. The bill enjoyed wide support in the House on both sides of the aisle. The bill was also supported by the Oglala Sioux Tribe and the State of South Dakota.

The Senate passed the bill with amendments on September 8.

The resolution at the desk reflects agreement we have reached with the Senate on the bill. The resolution would concur in most of the changes made by the Senate. However, in three areas, the Senate has agreed to compromise language. I would like to explain these changes.

First, the House-passed bill contained strong water conservation language; the Senate changed those provisions. Under the compromise language the Secretary would certify that reasonable water conservation plans are in effect prior to committing construction funds. We have been reassured by State officials and local project sponsors that they both support and intend to carry out water conservation programs. It is our expectation that prudent and reasonable water conservation programs will be implemented.

It is our intent—as it has been all along—that the purpose of the water conservation programs is to ensure that the rural water systems and their customers are using the best practicable technology and management techniques to reduce water use and water system costs. Furthermore, it is our intent that "reasonable" conservation plans shall include, at a minimum, the low consumption performance standards of the American National Standards Institute, beneficial reductions in nondomestic use, leak detection and repair programs, metering for all elements and connections of the systems, conservation pricing schedules, public education programs and coordinated operation between the systems and preexisting water supply facilities.

It is important to remember that this section is one of the major policy innovations in the bill. Real savings of both Federal and non-Federal dollars are possible if conservation plans are developed and implemented prior to construction, with final water system plans drawn to reflect these measures.

Second, the House-passed bill did not provide for indexing of the authorization of appropriations. Our concern—based upon long and painful experience with other water projects—is that project costs can escalate many times over their original projections if automatic indexing is permitted. The compromise will allow indexing only for 9 years after construction funds are first made available.

Third, the Senate made changes in the water rights portion of the bill which we have accepted.

I would also like to comment on changes made in the House-passed bill dealing with mitigation.

The Senate deleted House language allowing mitigation to be undertaken "prior to" actual construction. While we have agreed to this change, I wish to make it clear that the Secretary is not prohibited from undertaking mitigation activities prior to actual construction. He is authorized to mitigate in advance of construction if he so chooses. There are situations where the Secretary has an opportunity, for example, to purchase mitigation lands from a willing seller in advance of project construction. We do not intend to foreclose this sort of opportunity for the Secretary.

I would like to commend my colleague from South Dakota, Congressman TIM JOHNSON, for his tireless efforts in developing this legislation and in providing the leadership to see the bill through the House. Because of his efforts, the residents in these areas can look forward to safe, reliable drinking water—something they have sought and needed for many years.

The resolution at the desk would also add several additional items to the bill. All these items have passed the House earlier in this Congress, and the Senate has agreed to accept them.

The items in this amendment include the following:

First, authorize continued electric power sales at the Grand Valley Project, Colorado for 2 years.

Second, authorize the sale of certain public lands to the town of Veteran, WY.

Third, authorize the extension of repayment by the Redwood Valley Irrigation District, CA

Fourth, authorize the Lakeview Irrigation District, WY, to purchase storage space at a Federal reservoir.

Fifth, allow surplus revenues from Navy lands at the San Luis Unit, Central Valley Project to be used to purchase certain easements.

Sixth, authorize the purchase of electric power from the Shoshone Project, WY.

Seventh, deauthorize a feasibility study of the Shaws Bend Dam, TX.

Eighth, authorize a study to correct erosion problems caused by the Columbia Basin Project, WA.

Ninth, waive a 60-day waiting period for certain drainage and minor construction projects in Arizona.

Tenth, increase the authorization for lining reaches of the Bessemer Ditch, CO.

Eleventh, finally, the bill would authorize an increase in appropriations for the Closed Basin Project, CO.

Mr. Speaker, I would like to take a few moments to explain the language included on the Closed Basin Project, CO.

The Closed Basin Project was authorized by Public Law 92-514, October 20, 1972, as amended by Public Law 96-375. The main purposes of the project are: One, to help the State of Colorado meet its obligations for water deliveries to New Mexico and Texas under the Rio Grande Compact, and to meet treaty obligations for water deliveries to Mexico under the Rio Grande Convention of 1906; and, two, to supply water to wildlife refuges in the project area. Other project purposes include receation, fish and wildlife enhancement, and the sale of water for irrigation and other beneficial uses in Colorado.

Almost all of the project costs were made nonreimbursable by the authorizing legislation.

The Bureau started building the project in 1980. Out in the middle of the valley, 175 shallow wells are being drilled, known as the "sump." Each well will discharge through a short pipeline into the main project "conveyance channel" which runs south to the Rio Grande River. The Bureau hopes the project will yield 100,000 acre-feet of water per year. Construction of the project is now approximately 70 percent complete.

Costs have increased substantially since the project was authorized. Changes in project design, increased land acquisition costs, more wells, and installation of a fully automated remote control operating system are responsible for the increases.

The administration advised Congress of the need to increase the authorized cost ceiling in January 1988.

The current authorized cost ceiling is $75,176,000—October 1987 prices. The estimated cost to complete the project is $100 million. This provision would increase the authorized ceiling to $94 million—October 1988 prices—reflecting a local cost share of $6 million.

Legislation to increase the cost ceiling (H.R. 3952) was introduced by Congressman BEN NIGHTHORSE CAMPBELL on February 17, 1988. The Subcommittee on Water and Power Resources held a hearing on this bill on June 14, 1988. Testimony was received from the State of Colorado, the Rio Grande Water Conservation District, local officials, and representatives of local and national environmental organizations. Issues referenced in testimony at this hearing including the following:

The need to complete the project as currently planned; changes which have been made in project design since the original authorization; the importance of the project to the local economy and wildlife; environmental effects of the project; water quality problems; and, opportunities for local cost sharing and payment of operation and maintenance [O&M] costs, and for repayment of project construction costs.

This provision further amends the authorizing legislation for the Closed Basin Division, San Luis Valley Project—the Reclamation Project Act of 1972 (Public Law 92-514, 86 Stat. 964), as amended by the act of October 3, 1980 (Public Law 96-375, 94 Stat. 1505), and by the act of October 30, 1984 (Public Law 98-570, 98 Stat. 2941).

Subsection (1) deauthorizes channel rectification of the Rio Grande in Colorado below the point of discharge of the Closed Basin project.

Subsection (2) updates the authorization to reference the most current Federal water pollution control legislation. The intent of this subsection is to ensure that water discharges from this project comply with the most current water quality standards and requirements. In particular, discharges of heavy metals and other possibly toxic materials should be closely monitored. If individual wells are found to be contributing excessive contamination into the conveyance channel, consideration should be given to shutting down and capping those wells. Because of the unique nature of this project, the Regional Director of the Bureau of Reclamation should consult with the Regional Administrator of the U.S. Environmental Protection Agency to determine reasonable and safe discharge limitations for project wells.

Subsection (3) removes an additional reference to channel rectification.

Subsection (4) authorizes the Secretary to require water for project purposes from local sources other than the project wells if that water can be acquired at less cost, if it can be acquired and used without constructing additional facilities, and if the Secretary complies with all relevant Federal, state, and local laws, rules, and regulations. The purpose of this subsection is to give the Secretary additional flexibility in operating the project at reduced costs.

Subsection (5) authorizes the Secretary to enter into an agreement with the local project sponsoring agency to deliver water on a temporary basis to wildlife areas in those years in which there is not enough water available to meet authorized needs. This provision would allow the Secretary to deliver additional water for wildlife needs without altering the authorized project priorities for water deliveries.

Subsection (6) amends the existing authorization to require the execution of contracts between the United States and local water users providing for repayment of an appropriate share of construction costs, and for payment of all operation and maintenance costs for any priority 4 water delivered to them.

Subsection (7) increases the authorized cost ceiling to $94 million, and limits the amount which may be indexed to account for increased costs. This subsection further requires execution of a binding cost sharing agreement with the Secretary. The terms of the agreement would require the State of Colorado or a political subdivision of the State to contribute during construction one-third of the costs of construction in excess of $75 million, or $6 million whichever is less.

Mr. Speaker, all these items have been passed by the House on previous occasions and there is no objection to them.

Mr. Speaker, I urge that the House pass the resolution.

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Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2772, a bill to authorize the development of the Lyman Jones, West River and Oglala Sioux rural water development project and for other purposes.

The objective of H.R. 2772 is to provide a safe and reliable drinking water source for residents of the Pine Ridge Indian Reservation and several adjacent counties in west central South Dakota under a 35/65 percent cost-sharing arrangement. Non-Federal entities would pay 100 percent of their O&M costs.

The current water supply to these areas is very poor and below acceptable standard at times. The poor water quality has resulted in severe health problems, excessive pipe erosion and equipment failures.

The House reported this bill to the Senate in June. The Senate returned it with nine amendments. We made several technical changes to eight of the Senate amendments and agree with Senate amendment numbered 9. With regard to amendment 9, we have added several noncontroversial provisions previously reported by this body.

The administration's position is that such projects should be funded by non-Federal Interests.

In view of the Federal Government's trust responsibilities, it's appropriate for the Federal Government to participate in this project.

I urge my colleagues to support H.R. 2772 as amended.

Mr. Speaker, I consider this bill to be a significant step forward for the people of South Dakota, and I want to commend the gentleman from South Dakota [Mr. JOHNSON] for his work on bringing us this piece of legislation and enabling us to get it passed before the end of the 100th Congress. I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, again I want to thank the minority members of the committee for their effort in reaching an agreement on this legislation, and finally let me single out the gentleman from South Dakota [Mr. JOHNSON], our colleague, and say that many times this legislation became stalled in the process. This matter has been of some controversy for a number of years, and each time he has come forward to rescue this legislation and keep it going in the process, not only to pass it through the House, but also to finally get it passed in the Senate and make sure that it continues to remain on the forefront of our agenda. I want to commend him for that effort because I think it is very clear that without his

effort this legislation would not be passing this Congress.

Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of H.R. 2772 and urge the House to adopt this legislation.

This bill would authorize the Mni Wiconi project, which is a new name for what was formerly known as the Lyman-Jones, West River, and Oglala Sioux rural water development projects. Portions of this project have been worked on for over 20 years, and I believe that it is time for the dreams of the residents of western South Dakota to come to fruition. This project would bring clean, reliable drinking water to an area of the State which is forced to subsist on water conditions reminiscent of the last century.

This bill was forged through the cooperative efforts of many disparate groups. I am pleased that so many people have come together in support of this project, and I think that speaks volumes for this rural water system. I wish to thank Chairman MILLER for his hard work and dedication to this project; we have spent many hours working to bring this legislation to fruition. I also thank his staff, Dan Beard and Charlene Dougherty, for their persistence and imagination in helping to craft this package.

The Mni Wiconi project brings the varied elements from across South Dakota together in a coalition of support, this ranges from our Indian citizens to the white ranchers, as well as our environmental community, our business community, our public power leaders, and Democrats and Republicans alike, both in the state of South Dakota and here in Washington. This bill received unanimous support in the Water and Power Subcommittee, as well as in the full Committee on Interior and Insular Affairs.

This area is in dire need of clean drinking water. Shannon County, which constitutes the Pine Ridge Indian Reservation, would receive water from this project. Shannon County is the poorest county in the Nation. How is this county expected to ever break out of its cycle of poverty and dependence when the basic needs of life are difficult to attain—and what is more basic than clean, reliable drinking water?

Along with an unemployment rate which exceeds 70 percent and the lowest life expectancy of any group in the United States, according to the National Institute of Health, the residents of the reservation, as well as other communities in the project area, have to drink water which violates several Federal standards. The levels of dissolved solids, sodium, calcium, iron, fluoride and radium, as well as several other minerals, violates standards of the Safe Drinking Water Act. In some areas of western South Dakota, the level of sodium is more than 93 times the maximum recommended level. Throughout the area, pipes clog up with mineral crystals, while faucets, water heaters, and other water appliances, are ruined due to the high concentrations of minerals.

My greatest concern is for the health and well being of the people in this area. It is important to remember that this is not an irrigation project—not a drop will go to irrigating fields; instead, this water will help improve the health problem on the reservation, and the water quality problem in communities and households across western South Dakota. I believe it is the responsibility of the Federal Government to address this concern.

At the time, this water will help fuel economic development in the small towns and communities throughout the project area, both on and off the reservation. With a reliable source of water these small communities can attract new businesses and small-scale industry. This development and the presence of clean, drinkable water will help to raise the standard of living for residents throughout the area.

There are only two alternatives for the people of western South Dakota: continue drinking the unhealthy water available to them, on pipe water in from the Missouri River. The highly successful WEB pipeline in eastern South Dakota shows just how good rural water can be, and this project can be replicated in western South Dakota. The Mni Wiconi project will help lead to the long term stabilization of the local economy, while securing a high quality of life and a safe quality of life for the residents in western South Dakota.

I believe that the work and cooperation done on this project can serve as a model for rural water development across the Nation.

Mr. Speaker, I urge my colleagues to support this legislation, and I again want to thank the gentleman from California for yielding.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of H.R. 2772, the Mni Wiconi Project Act of 1988.

Mni Wiconi means "good water" in the Lakota dialect. The basis of this entire project is to deliver good water to residents of south central South Dakota who are currently forced to live with water of extremely poor, even hazardous, quality. In addition, many residents are forced to haul this substandard water several miles to their homes.

Analyses show that water sources in this area contain unsafe levels of dissolved solids, sodium, sulfates, fluoride, iron, and radium. Depending on the specific source, other organic or inorganic chemicals and minerals are present. Excessive levels such as this obviously contribute to the health problems in the region. While the high levels of sodium lead to high blood pressure and the sulfates and solids can lead to kidney disease, radium is carcinogenic. Other diseases associated with bad water include skin disease, hepatitis, and shigella among others. An answer must be found to this public health problem.

Besides damaging the health of residents in the area, the poor water contributes to pipe corrosion and equipment failure. Appliances such as water heaters often need to be replaced every couple years.

The area of service will include Lyman, Jones, Stanley, Haakon, Jackson, and Shannon Counties, as well as portions of Pennington, Bennett, and Mellette Counties in western South Dakota. This includes the Oglala Sioux Tribe on the Pine Ridge Indian Reservation.

The need for clean, reliable drinking water on the reservation cannot be overstated. Shannon County, one of the counties in which the reservation is located, is the poorest county in the Nation. Per capita personal income in Shannon County in 1986 was $3,855. Unemployment ranges upward of 80 percent. One out of five homes on the reservation does not have running water. Digging a well costs $10,000 to $30,000, and this does not ensure safe water. Water is a basic necessity of life which nearly all of us take for granted—how can these people be expected to break the cycle of ill-health and poverty without decent drinking water? This drinking water will be the first step in helping the residents of the reservation to help themselves.

This project would not have been possible without the hard work and cooperation of disparate groups in the State, as well as here in Washington. The authorization of this project is the culmination of a dream for the area residents, many of whom have worked upward of 20 years with tireless dedication to establish a project such as this. I must commend the work and support of my South Dakota Senate colleagues, TOM DASCHLE and LARRY PRESSLER. In South Dakota, the support of Gov. George Mickelson has been instrumental.

I am pleased that both State and national conservation organizations have supported this project. These groups realized that water needs can be addressed while still protecting the environment. To ensure protection of the environment of South Dakota, stringent mitigation measures are required by the act. Environmental damage will be mitigated on an ecologically equivalent, acre-for-acre basis. Furthermore, the act prohibits the use of water from the Mni Wiconi pipeline for irrigation.

Changes to the original version of Mni Wiconi were made by the Senate. Fortunately, these differences were reconciled in final deliberations with the House. While the original House version was preferable, I accept the changes.

The Senate amended the House water conservation provisions. I support the water conservation measure which was put forth in the original House bill, however, I accept the new language because I feel that it still supports sound conservation practices. I believe that these water conservation measures should be integrated into the rural water systems authorized by this legislation. Because of this integration, the capital costs for water conserva-

tion measures in any plan approved by the Secretary should qualify for funding in the same manner as other project features. Wise and prudent conservation measures are essential to the success of the project.

Present requirements on mitigation remain strong under the bill. The intent of the committee is clearly to allow purchase of mitigation lands prior to the beginning of construction if that is necessary or preferable. Cost indexing under the current bill includes a 9-year sunset provision.

Several groups have raised questions about the Mni Wiconi Project Act. I believe it is important to clarify these concerns, and have them reflected in the RECORD. First, the questions of the Oglala Sioux Tribe need to be addressed. These concerns arise from the fact that many residents of the reservation do not trust the intentions of the Federal legislation. I believe that the concerns they have raised are legitimate, and they deserve clarification.

The primary concern centered on the water rights language contained in the bill. This issue was clarified to the satisfaction of all through the input of all the interested parties, including the Oglala Sioux Tribe. The new water rights language which is now in the bill remains neutral to the rights of the Indians, which was the original intent.

Another concern of the tribe regards the worry that it will be taxed on the water system. As previously stated, the Oglala Sioux do not have the resources to pay taxes on such a project. This additional financial burden would be unbearable due to the overwhelming economic problems on the reservation. I want to reasssure the tribe that the project is a Federal project which is held in trust by the United States on behalf of the tribe, and as such it cannot be taxed by either country or State.

The Oglala Sioux Tribe also raised concerns relative to the cost of the water to individuals on the reservation. The purpose of this project is to deliver good drinking water to those who currently do not have this luxury. As I have stated, the people of the reservation cannot afford large water bills due to their economic conditions. The delivery of water to the people of the reservation is a tribal concern; a point which needs to be emphasized. The tribal council fully retains the right and ability to provide its people with water at no cost to the consumer. Therefore, safe water will be provided to the people of the Oglala Sioux Reservation while maintaining as much flexibility as possible so that the concerns of the tribe can be met.

Another concern of the tribe deals with their rights during the construction of the project. The tribe wants to be involved in the construction phase to help improve their economic life. The bill explicitly states that construction of the project within the reservation will be subject to provisions of the Indian Self-Determination Act, Public Law 93-638. Thus, the tribe has every right to give perference to the hiring of qualified Indian labor, as stated in the Buy-Indian Act. Furthermore, the tribe must extend its support to the project construction contract, so it is clear that the tribe has the authority to assure that the contract which is drawn up and implemented protects its interests in hiring preference.

In addition, I want to stress that the mitigation of fish and wildlife habitat losses at the Oahe Dam and Reservoir and the Big Bend Dam and reservoir affects in no way, or in any way impacts any hunting and fishing rights or sovereign rights of any Indian tribe, including the Oglala Sioux Tribes. I also want to clarify that it is not the intent of either sections 8 or 9 of H.R. 2772 to in any way limit the ability of the tribe to seek electric power from Pick-Sloan, and that the tribe can seek additional power in the future that it may need from Pick-Sloan, or any other source, and to plan, design, or construct additional federally-assisted water resource development projects.

The South Dakota Rural Electric Association has expressed its own concern that H.R. 2772 sets a precedent whereby preference power from authorized, though unbuilt, irrigation projects along the Missouri River is reallocated to a new drinking water project, effectively circumventing the traditional role of the REA's in supplying power. The House committee report stresses that no precedent is intended, and I want to underscore this fact. The unique nature of the Mni Wiconi project and the need to supply the Oglala Sioux Indian Reservation with safe water are the reasons why the bill is structured as it is. I wish to reemphasize that no precedent is intended. I have constantly worked to maintain the integrity of preference power, and I will continue to do so. I will do everything possible to see that this portion of the bill is not construed as a precedent.

This legislation is needed immediately to address the critical health and economic problems in this area of South Dakota. We all expect access to clean drinking water. Unfortunately, this expectation is not being met in western South Dakota. The Mni Wiconi water pipeline will solve this problem, and the time to act is now. This action will help the lives of some of our Nation's most neglected people. We must act and send Americans the message that clean and safe water is a basic right of daily life.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The question is on the motion offered by the gentlemen from California [Mr. MILLER] that the House suspend the rules and agree to the resolution, H. Res. 567.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 795) to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, CA, and for other purposes as amended.

The Clerk read as follows:

S. 795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) BANDS.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) FUND.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, an intertribal Indian entity established by the Bands.

(4) LOCAL ENTITIES.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SUPPLEMENTAL WATER.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890's and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to

preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principal has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of the water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) PURPOSE.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the city of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgments or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) OBLIGATION TO ARRANGE FOR DEVELOPMENT OF WATER FOR BANDS AND LOCAL ENTITIES.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acrea-feet per year either through participation in the lining of the previously unlined portions of the All American Canal or through contract with the Metropolitan Water District of Southern California.

To accomplish the requirements of this section, the Secretary is authorized to enter into such agreements or contracts as are necessary for the construction, operation and funding of the works required to develop such supplemental water. Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) AUTHORITY TO UTILIZE EXISTING PROGRAMS AND PUBLIC LANDS.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable:

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjunction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) TERMS AND CONDITIONS OF WATER DELIVERIES.—Such supplemental water shall be provided for use by the Banks on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the delivery of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) COST OF DEVELOPING AND DELIVERING WATER.—The cost of developing and delivering supplemental water pursuant to subsection (a)(1) of this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) REPORT TO CONGRESS.—Within nine months following enactment of this Act, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the Secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent intertribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this Act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided*, That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

The Secretary and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The execution of the settlement agreement shall not be withheld or delayed for any reason associated with providing the supplemental water supply. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this Act.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) POWER FACILITIES.—Any license issued under the Act of June 10, 1920 (16 U.S.C. 791a et seq., commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Banks, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) INDIAN AND GOVERNMENT LANDS.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease, grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC 110. RULES OF CONSTRUCTION.

(a) EMINENT DOMAIN.—No provision of this title shall be construed as authorizing the acquisition by the Federal government of any water or power supply or any water conveyance of power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon . . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for a purpose of the water stored as aforesaid except by contract" and the Secretary has entered into water delivery contracts with public agencies in California.

(4) The available supply to Colorado River water in California is over-allocated because—

(A) under the terms of the decision and decree in *Arizona v. California*, 373 U.S. 546, and section 301(b) of the Colorado River Basin Project Act (43 U.S.C. 1521(b)), California is limited to a dependable supply of 4.4 million acre-feet of water per year,

(B) the California contractors' entitlement under their water delivery contracts with the Secretary is in excess of 4.4 million acre-feet per year, and

(C) actual use under these contracts has been considerably in excess of 4.4 million acre-feet per year for all but two years since 1964.

(5) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(6) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions of the United States Supreme Court.

(7) The Secretary has promulgated regulations pursuant to his authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(8) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617-617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractors.

(7) "Workers" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) CANAL LINING AUTHORIZED.—The Secretary, in order to reduce the seepage of water, is authorized to—

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

(2) implement measures to mitigate resulting impacts on fish and wildlife resources. Mitigation for fish and wildlife resource losses in or adjacent to the canals incurred as a result of the construction of the works shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with or prior to construction of the works. The Secretary shall make available such public lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife mitigation purposes.

(b) OPERATION AND MAINTENANCE DETERMINATION.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) CONSTRUCTION AND FUNDING AGREEMENT.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or funding of all or a portion of the works authorized in subsection (a) of this section. Such agreement or agreements shall set forth, in a manner acceptable to the Secretary—

(1) the responsibilities of the parties to the agreement for funding and assisting with implementing all the duties of the Secretary identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional costs identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirements for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation of impacts on fish and wildlife resources, and procedures for operation, maintenance, and protection of such works;

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and,

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) TITLE TO THE WORKS.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights of the United States to the waters of the Colorado River, or would inhibit the Secretary's ability or fulfill his responsibility under the Project Act.

(e) AUTHORIZATION OF APPROPRIATIONS.

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsections (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) SECRETARIAL DETERMINATION.—The Secretary shall determine the quantity of water conserved by the works and may revise each determination at reasonable intervals based on such information as the Secretary finds appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) BENEFICIAL USE IN CALIFORNIA.

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractor other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

(a) EFFECTIVE DATE.—The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to become the sole Participating Contractor for the works on the All American canal from Pilot Knob to Drop 4, and assume all non-Federal obligations to finance the works. After the expiration of the 15-month period, the Secretary is authorized to enter into agreements with the California Contractors as provided in section 203(c) of this Act.

(b) AGREEMENTS AMONG PARTICIPATING CONTRACTORS.—The Participating Contractors may enter into additional agreements, consistent with existing law, with one or more California Contractors to establish terms and conditions to implement the provisions of this title. The Secretary shall cooperate with the parties to such agreements.

SEC. 206. PROTECTION OF EXISTING WATER USES.

As of the effective date of this Act, any action of the Secretary to use, sell, grant, dispose, lease or provide rights-of-way across Federal public domain lands located within the All American Canal Service Area shall include the following conditions: (1) those lands within the boundary of the Imperial Irrigation District as of July 1, 1988, as shown in Imperial Irrigation District Drawing 7534, excluding Federal lands without a history of irrigation or other water using purposes; (2) those lands within the Imperial Irrigation District Service Area as shown on General Map of Imperial Irrigation District dated January 1988 (Imperial Irrigation District No. 27F 0189) with a history of irrigation or other water using purposes; and (3) those lands within the Coachella Valley Water District's Improvement District No. 1 shall have a priority for irrigation or other water using purposes over the lands benefiting from the action of the Secretary: *Provided,* That rights to use water on lands having such priority may be transferred for use on lands having a lower priority if such transfer does not deprive other lands with the higher priority of Colorado River water that can be put to reasonable and beneficial use.

SEC. 207. WATER CONSERVATION STUDY.

(a) PREPARATION AND TRANSMITTAL.—Any agreement entered into pursuant to section 203 between the Secretary and The Metropolitan Water District of Southern California (hereafter referred to as the "District") shall require, prior to the initiation of construction but in no case later than two years from the date of enactment of this Act, the preparation and transmittal to the Secretary by the District of a water conservation study as described in this section, together with the conclusions and recommendations of the District.

(b) PURPOSE.—The purpose of the study required by this section shall be the evaluation of various pricing options within the District's service area, an estimation of demand elasticity for each of the principal categories of end use of water within the District's service area, and the estimation of the quantity of water saved under the various options evaluated.

(c) PRICING ALTERNATIVES.—Such study shall include a thorough evaluation of all the pricing alternatives, alone and in various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;

(2) seasonal rate differentials;

(3) dry year surcharges;

(4) increasing block rates; and

(5) marginal cost pricing.

(d) PUBLIC REVIEW AND COMMENT.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) LIMITATION ON INITIATION OF CONSTRUCTION.—Prior to the initiation of construction, the Secretary shall make a finding, and publish such finding, that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implementation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Wildlife Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;

(2) identify actions which would be undertaken to improve habitat at the refuge;

(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and

(4) describe current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (P.L. 97-293, 96 Stat. 1263).

The SPEAKER pro tempore. Is a second demanded?

Mr. PASHAYAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from California [Mr. PASHAYAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 795, and urge passage of the bill.

Mr. Speaker, we have worked for nearly 4 years to find language to resolve this water rights dispute that is acceptable to House Members. We have now found that language.

The amendment I am offering today provides for the settlement to a longstanding Indian water rights issue in southern California. The bill would authorize establishment of a $30-million trust fund. The fund would be used to finance construction of water development facilities on the affected Indian reservations.

The Indian tribes would also receive up to 16,000 acre-feet of water from public lands in southern California or from the lining the All-American Canal.

In return, the tribes would relinquish all claims to the San Luis Rey River and end nearly 50 years of litigation between the Indians and local cities.

Mr. Speaker, this bill is not perfect. However, I believe this version is acceptable and should be supported by the House.

Title II of the amendment would authorize non-Federal interests to line the previously unlined portions of the All-American Canal in southern California.

This project could result in making available to southern California nearly 100,000 acre-feet of water which is currently being wasted.

This is a unique way to make additional water available. The unlined All-American Canal is wasting water. This bill will line the canal and eliminate the waste. Equally important, the project will be done at no expense to the Federal Government.

Mr. Speaker, the support for this project is substantial. Every major newspaper in the State of California has editorialized in support of this project. Scores of cities and towns have submitted resolutions of support. As they point out, this bill will solve a complex problem, at no cost to the Federal taxpayers, and with a minimum of environmental disruption.

Mr. Speaker, I urge support for the bill, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amendment in the form of a substitute on S. 795, a bill that settles a longstanding dispute over Indian water rights on the San Luis River in southern California, and authorizes the relining of the All-American Canal in southern California at no costs to the Federal Government.

With regard to settling the Indian claim, the Secretary is authorized to contract with the metropolitan water district to provide up to 16,000 acre-feet of water annually to the tribes at a rate per acre-foot that has been agreed to by the parties. The total costs of relining the All-American Canal will be financed solely by interests other than the Federal Government.

This is a fair and equitable solution to a longstanding dispute.

The administration's major concerns have been addressed and I urge my colleagues to support S. 795, as amended.

I wish to thank my colleagues Mr. LEVINE of California and Mr. PACKARD. The original bill took water out of the San Joaquin Valley—unacceptable to us there because we had nothing to do with creating the problem. This bill now takes not one drop of water from the Central Valley project.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker. I rise in support of S. 795, particularly with regard to title II of that bill. This title authorizes lining the All-American Canal, which is in my district and provides water for farming, domestic and industrial use to the people of the Imperial Valley.

The Imperial Irrigation District has the responsibility of delivering water from the Colorado River through the canal and has nearly 90 percent interest in paying for, maintaining and operating the canal. It is the only source of water for the valley.

The Imperial Irrigation District has been engaged in negotiations with other users of water from the canal and the Metropolitan Water District of Southern California to facilitate a lining project to conserve water that seeps from the present earthen canal. The irrigation district has participated in this process to draft the necessary legislation to ensure that its rights to Colordao River water are not abridged and to enable the district to obtain title to the All American Canal once the debt for the Canal construction is repaid. Title V of the bill is the result of those negotiations.

For nearly 50 years, the people of the Imperial Valley have been paying off their loan to the Federal Government which financed the canal construction, looking forward to the day that they would own the canal. The people of the valley have consented to the concept of this legislation which will for the first time in history allow an outside insterest to involve itself in the management practices of another water district. In exchange, my valley constituents are now assured that the title to the canal can be transferred, just as all of us expect to receive title to our homes once the mortgage is paid off.

There is nothing in title II of the legislation intended to affect the debate in California and the west over water conservation or water use rights, it only addresses the canal lining project.

Mr. Speaker, I congratulate my colleagues, especially Mr. MILLER, MR. PACKARD, Mr. PASHAYAN, and Mr. LEVINE, for their efforts to balance the diverse interests of the parties concerned with the legislation. Therefore, I will be happy to lend my support to this legislation.

Mr. PASHAYAN. Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, but I would just like to thank

those who have worked so very hard on this legislation, the gentlemen from California, Mr. LEVINE, Mr. PACKARD, Mr. HUNTER, and Mr. PASHAYAN. I must say the gentleman from California, Mr. PASHAYAN, went from being a major obstruction in the roadway to passage of this legislation to one who has participated in constructively fashioning this solution that I think will work for all of the interested parties, and I want to thank them for their time and effort on behalf of a rather diverse group of people to bring together this solution. I would hope that the Congress would support the passage of this legislation.

Mr. PASHAYAN. Mr. Speaker, I thank my colleague, the gentleman from California [Mr. MILLER] for his very kind words, and I also thank my colleague personally for his indulgence, and his patience and his understanding because this was a knotty little problem, and without his guidance we could not be here successfully on the floor.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PACKARD. Mr. Speaker, I join in urging passage by the House of S. 795, the San Luis Rey Indian Water Rights Settlement bill.

This legislation presents a unique opportunity for the Congress to correct a Federal mistake which happened nearly 100 years ago. The history of the United States giving away this river to first Indians and then, within only a few years, to non-Indians is indeed sad. The saving grace is that we now have an opportunity to correct those mistakes.

We have before us today a settlement package which has been molded first at home where the dispute is so damaging, and then, through many hours of member and staff energy, refined and reformed into a consensus package which unites the California delegation in its support.

The water supply for this bill has taken a circuitous route from the Central Valley to the All American Canal, and finally to reliance upon ground water from the public domain. Through that journey, many have helped. I cannot name all of the players but the assistance of other Members of the California delegation on both sides of the aisle has been exemplary and is greatly appreciated. Members of the Committee on Interior and Insular Affairs have also been extremely helpful particularly Congressmen PASHAYAN, MILLER, and LEVINE. I wish to express my thanks to those members for their diligence and forbearance during the difficult times of forging this settlement. The staffs of the committee and of the members also deserve a note of congratulation on the product of their effort.

Of special note I would like to acknowledge the work of the settlement parties, Escondido, Vista, and the Mission Bands. For 4 years, with the Interior Department's assistance, I encouraged these historically warring parties to suspend their fights in the courts and devote their energies to a peaceful resolution of the controversy. The bond of cooperation that has formed has resulted in the consensus package which we have before us today. The package is a tribute to the unity, flexibility, and persistence of these parties who have surmounted numerous roadblocks and detours to reach this day.

A few technical clarifications are in order since the bill before us reflects improvements added since the committee report was filed. We need to point out that the Secretary's trust responsibility to the Bands will need extra diligence as the settlement is implemented. Of particular importance is the need for the Secretary to assure that before the Band's rights are released in the settlement agreement that a perpetual water supply is secured and the authorized appropriations have been deposited in the Indian trust fund. In this regard we would encourage the administration to include the necessary appropriations in the President's budget for fiscal year 1990. Similarly the Secretary needs to assure that the opportunity to develop water supplies on the Federal public domain is not usurped under other authorities without the settlement parties receiving 16,000 acre/feet per year from that source.

To provide for early completion of the necessary actions and appropriate oversight by the Congress, section 6(b) of the bill includes a requirement that the Secretary report to the Congress on plans for implementing the water supply aspects of the bill. To assure that there is no misunderstanding, it should be understood that the water supply and contracting activities are expected to commence with enactment of this measure and the necessary investigations and negotiations should not be delayed until the settlement agreement is completed. We expect to see the report of the Secretary no more than 9 months after enactment of the legislation.

Mr. Speaker, in closing I would like to point out an important aspect of this settlement to most other members. This settlement shows that Indian tribes, their non-Indian neighbors, and the United States can join forces to find an equitable, acceptable, and honorable peace if they will only sit down and work with each other. Without his settlement, the parties would spend another 20 years in the courts. Many other members of this body have similar disputes affecting their constituents. Approval of this measure will send a signal that resolution of such controversies is possible through the art of negotiation and that the United States can be a responsible citizen. Therefore, I ask your approval of this bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the Senate bill, S. 795, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

REPORT OF COUNCIL ON ENVIRONMENT OF QUALITY MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries.

(For message, see proceedings of the Senate of today, October 3, 1988.)

□ 2200

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that I may be permitted to vacate my 60-minute special order today, and in lieu thereof address the House for 5 minutes.

The SPEAKER pro tempore (Mr. CARDIN). Is there objection to the request of the gentleman from Texas?

There was no objection.

WORLD HABITAT DAY

The SPEAKER pro tempore (Mr. CARDIN). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, October 3, 1988, has been designated by the United Nations as World Habitat Day. Every year at this time the United Nations acts to call our attention to the needs of millions of families throughout the world who are homeless or who live in conditions of shelter so substandard as to almost defy description. U.N. Secretary General Javier Perez De Cuellar points out that the problems of homelessness and inadequate shelter are steadily growing worse each year and that the situation has "ominous implications for peace and social stability in all countries."

The housing problems the Secretary General alludes to are not confined to underdeveloped countries. Here in the United States we have evidence of shelter problems on par with those of underdeveloped nations or Third World nations though not as widespread. And, I regret to say that these problems have grown in the United States rather than declined, especially in the last 8 years. The poor and near poor in our cities and rural areas are sorely in need of adequate and affordable shelter. In some areas such as the Southwest along the Mexican border housing, water and sanitary sewer systems are substantially inadequate or entirely lacking.

As my colleagues from Texas, Arizona, New Mexico, and California know first hand, these conditions are found on our side of the border involving upward of 200,000 people. I refer here to the conditions in the Colonias: Sub-

divisions in unincorporated places located along the United States and Mexican border. Recently, along with some of my colleagues from Texas, we have taken some steps toward bringing much needed assistance to the people that live in these Colonias, but the point here is that they are found in the richest nation in the world. So we can indeed sympathize with the U.N. Secretary General and share in his concerns to have governments at every level act in directing resources, particularly in the provision of adequate infrastructure toward the needs of the poor.

The U.N. Secretary General notes in his Habitat Day statement that the recent and growing level of commitment to expanded shelter and community development on the part of the world governments gives us reason for hope that global shelter problems can be met. I hope he is correct. I know my colleagues in the House share in that hope and welcome the efforts of the United Nations in designating an annual "Habitat Day" to call special attention to the great and pressing need for better housing and more healthful communities throughout the world. Decent housing is a human right and I intend to continue to do all that I can to strengthen our resolve to make decent housing a reality to all of our fellow citizens in the United States, as well as, in the developing world.

Mr. Speaker, I include the statements of the U.N. Secretary General and the Executive Director of UNCHS issued on the occasion of World Habitat Day as a part of my statement here today.

MESSAGE OF THE SECRETARY GENERAL OF THE UNITED NATIONS, MR. JAVIER PEREZ DE CUELLAR, ON THE OCCASION OF WORLD HABITAT DAY, MONDAY, OCTOBER 3, 1988

Every year, on World Habitat Day, we turn our special attention to the plight of millions of our fellow citizens who are homeless or live in totally inadequate shelter conditions.

The problem is steadily growing worse. It manifests itself most visibly in urban centers, particularly in developing countries. Over the next decade, the number of families living in urban poverty will reach approximately 75 million, up from 33 million just over a decade ago. It is apparent that there is an enormous pressure on the capacity of Governments and the private sector to develop housing, water supply and sewerage facilities, as well as health, education and transport services, to cope with the demand.

This is a situation with ominous implications for peace and social stability in all countries. To redress it should be one of our major social priorities.

The United Nations system, through the United Nations Centre for Human Settlements (Habitat), and other agencies, is called upon to collaborate with Governments and extend to them every possible assistance in this critical area of development. Through a diversified programme of technical co-operation, research, training and information exchange, we are working to place in the hands of Governments the technical knowledge and assistance which will permit them to address this seemingly intractable problem. We shall also continue to support their efforts to garner the necessary resources for translating policies and programmes into concrete results for the betterment of the housing and overall living conditions of their people.

We are greatly encouraged to note the commitment of Governments, organizations and individuals, expressed through new initiatives in the shelter sector, and demonstrated during and since the International Year of Shelter for the Homeless, 1987. The international community has moved from the stage of merely promoting awareness of the shelter problem to that of undertaking wide-ranging action to address it. I take this opportunity to record my profound appreciation to all those who have been working towards a solution of the shelter problem. I am confident that a broad international endeavour will enable us ultimately to come to grips with the common enemies of poverty, substandard living conditions, disease and ignorance.

This year's World Habitat Day theme of "Shelter and Community" focuses on shelter activity at the local and community levels and highlights the capacity for innovation and co-operative endeavour that exists in every community. It also recognizes the social and symbolic significance of the home in binding the individual to the family and the family to the community.

With Government, the private sector, non-governmental organizations and the people themselves all joining hands in one concerted effort, and the international community providing the needed support, I feel certain that the global shelter challenge can, and will be, met. The United Nations will continue to play its part. I urge all others to play theirs.

NATIONAL BIBLE WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I am very honored to be cochairman of the Congressional Committee for National Bible Week this year. Before we adjourn the 100th Congress, I wanted to bring this event to the attention of my colleagues and to encourage your participation in the inspiring activities slated during that week. This year the observance will be from November 20–27.

Back in 1940, 11 men met in New York to form the National Committee for Religious Recovery. Their purpose was to encourage belief and faith in God, daily Bible reading, religious education and to strengthen religious life in America. One of the best ways to do that, they found, was to stimulate the reading and study of the Bible. They changed the name of the group to the Laymen's National Committee and later changed that to the Laymen's National Bible Committee.

Ironically, the first National Bible Week was to be December 8–14, 1941, but the first nationally scheduled radio program in observance of the week was interrupted by the news that Pearl Harbor had been bombed. The horror of war made the members of the committee more committed than ever to promote the Bible and the message it has for all people. The event has grown in statute and importance in the years since then.

This year, thousands of people will participate in some of the related events surrounding National Bible Week. Packets of information will be sent to religious and lay leaders across the country. Service clubs, libraries, Boy Scouts, Girl Scouts, churches, synagogues, and many other groups will join us in observance of this special week.

I hope you will help me promote National Bible Week this year, November 20–27. If you would like more information, contact Reuben Gums, executive director of the Laymen's National Bible Association, 815 Second Avenue, New York, NY. 10017 or call 212–687–0555.

EASTSIDE WEEK IN PITTSBURGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, every month in my hometown, representatives of 19 organizations gather at St. Francis Hospital to pool their resources and solve problems of housing, employment, and health care in 4 Pittsburgh neighborhoods—Bloomfield, Garfield, Lawrenceville, and Polish Hill.

These 19 organizations cover a wide range of interests and purposes. They include the Bloomfield/Garfield Corp., Bloomfield/Lawrence-ville Lions Club, Bloomfield/Lawrenceville Lioness Club, Friendship Baptist Church, Garfield Jubilee Association, Lawrenceville Business Association, Lawrenceville/Bloomfield/Garfield Ministerial Association, Lawrenceville/Bloomfield Meals on Wheels, Lawrenceville Citizen Council, Lawrenceville Development Corp., Lawrenceville Historical Society, Penn Merchants Triangle, Polish Hill Civic Association, St. Augustine's Church, St. Francis Health System, St. Mark A.M.E. Zion Church, St. Mary's Church, Trinity Baptist Church, and West Penn Hospital.

Their names reflect their great diversity, but these groups all have something in common. Each is dedicated to making life better in their neighborhoods, and these organizations all realize that they can accomplish far more by working together than by working separately.

Two years ago, they set up a framework for cooperation called the Eastside Alliance. St. Francis Hospital helped them launch the effort, and last year, the coalition added two staff members.

If you look through the literature of the Eastside Alliance, you see the beginnings of a very practical agenda. The alliance aims to help homeowners use the city's home repair loan programs to keep their neighborhoods attractive. The alliance maintains information on area contractors for residents who need to add a bedroom or have their roof repaired. The alliance is publishing "Among Friends," a handbook listing area services for older residents, so that they can stay in the neighborhoods. The alliance wants to help working residents obtain job training and job referrals in the area.

From October 17 to 24, the Eastside Alliance will be celebrating Eastside Week in Pittsburgh. The highlight of the celebration will be the first volunteer awards dinner and dance on October 21 at the Bloomfield Moose Lodge. A volunteer from each of the alliance's members organizations will receive an award, and Ann Davis will be honored as the East Sider of the Year.

I want to take this opportunity to extend my congratulations to all of the individuals and organizations who are pitching in to make the Eastside Alliance a success, and to wish them well during Eastside Week. I especially want to congratulate Ann Davis on being chosen as East Sider of the Year. The neighborhoods of Bloomfield, Garfield, Lawrenceville, and Polish Hill—indeed, the entire city of Pittsburgh—are all better places because of the Alliance.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ECKART (at the request of Mr. FOLEY), for today, on account of personal business.

Mr. LOWRY of Washington, for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HUNTER) to revise and extend their remarks and include extraneous material:)

Mr. DREIER of California, for 60 minutes, today.

Mr. SWINDALL, for 60 minutes, today.

Mr. DREIER of California, for 60 minutes, on October 4.

Mr. DREIER of California, for 60 minutes, on October 5.

Mr. DREIER of California, for 60 minutes, on October 6.

Mr. DREIER of California, for 60 minutes, on October 7.

Mr. BLILEY, for 60 minutes, on October 6.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. MONTGOMERY, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mr. ALEXANDER, for 60 minutes, on October 5.

Mrs. BOXER, for 60 minutes, on October 4.

Mrs. BOXER, for 60 minutes, on October 5.

Mr. GRAY of Illinois, for 60 minutes, on October 4.

Mr. GRAY of Illinois, for 60 minutes, on October 5.

Mr. GRAY of Illinois, for 60 minutes, on October 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HUNTER) and to include extraneous matter:)

Mr. LEWIS of California in two instances.

Mr. DAVIS of Illinois.

Mr. DONALD E. "BUZ" LUKENS.

Mr. MCCANDLESS.

Mr. GALLO.

Mr. CRANE.

Mr. MCGRATH.

Mr. SHUSTER.

Mr. HEFLEY.

Mr. SAXTON.

Mr. BEREUTER in two instances.

Mr. CLINGER.

Mr. KYL.

Mr. OXLEY.

Mr. BLAZ.

Mr. LAGOMARSINO.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. TRAXLER.

Mr. CLEMENT.

Mr. STARK.

Mr. ATKINS in two instances.

Mr. FASCELL in three instances.

Mr. RODINO.

Mr. OBEY.

Mr. DORGAN of North Dakota.

Mr. KILDEE.

Mr. STUDDS.

Mr. TRAFICANT.

Mr. STALLINGS.

Mr. DE LUGO.

Mr. ST GERMAIN.

SENATE BILL AND JOINT RESOLUTIONS REFERRED

A bill and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2204. An act to implement the Inter-American Convention on International Commercial Arbitration; to the Committee on the Judiciary.

S.J. Res. 378. Joint resolution designating the week of October 2 through 8, 1988, as "National Wild and Scenic River Act Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 379. Joint resolution to establish as the policy of the United States the preservation, protection, and promotion of the rights of indigenous Americans to use, practice and develop Native American languages, and for other purposes; to the Committee on Education and Labor.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4587. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1988, and for other purposes;

H.R. 4637. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4776. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes; and

H.R. 4781. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2846. An act to provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On September 30, 1988:

H.R. 4419. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974;

H.R. 4784. An act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4457. An act to create a national park at Natchez, Mississippi;

H.R. 2952. An act to increase the amount authorized to be appropriated for acquisition at the Women's Rights National Historical Park;

H.R. 3977. An act to authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993; and

H.R. 4998. An act to amend the Food Stamp Act of 1977 to make technical corrections in the Family Independence Demonstration Project.

On October 1, 1988:

H.R. 4781. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4776. An act making appropriations for the government of the District of Columbia and other activities chargeable in

whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes;

H.R. 4587. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1989, and for other purposes; and

H.R. 4637 An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 8 minutes p.m.) the House adjourned until tomorrow, Tuesday, October 4, 1988, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communiations were taken from the Speaker's table and referred as follows:

4408. A letter from the Secretary of the Navy, transmitting notifications of the proposed transfer of the obsolete submarine *Croaker* (SS-246) to the city of Buffalo, NY, for use as a naval museum and memorial, pursuant to 10 U.S.C. 7308(c); to the Committee on Armed Services.

4409. A letter from the Chairperson, Interagency Coordinating Council on the Rehabilitation Act of 1973, transmitting a report on the activities of the Interagency Coordinating Council, pursuant to 29 U.S.C. 794c; to the Committee on Education and Labor.

4410. A letter from the Acting Director, Defense Security Assistance Agency; transmitting notification of the Administration's intent to sell Stinger missiles to the Government of Japan, pursuant to Public Law 100-202, section 573(d) (101 Stat. 1329-177); jointly, to the Committees on Foreign Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on continuing violations of the Truth in Negotiations Act and estimating system deficiencies result in excess contractor profits (Rep. 100-1026). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations Report on the Inspector General Act of 1978: A 10-year review (Rep. 100-1027). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 5372. A bill to amend the Trademark Act of 1946 to make certain revisions relating to the registration of trademarks, and for other purposes (Rept. 100-1028). Referred to the Committee of the Whole House on the State of the Union.

Mr. LAFALCE: Committee of conference. Conference report on H.R. 4174 (Rept. 100-1029). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5069. A bill to establish a 12-mile territorial sea and a 24-mile contiguous zone, to establish the National Oceans Policy Commission, and for other purposes; with an amendment (Rept. 100-1030, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. House Concurrent Resolution 331. Resolution to acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution; with an amendment (Rept. 100-1031). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1236. A bill to reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes; with an amendment (Rept. 100-1032). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5203. A bill to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes; with an amendment (Rept. 100-1033, Pt. 1). Ordered to be printed.

Mr. FRANK: Committee on the Judiciary. H.R. 4480. A bill to change the name of the Pacific Tropical Botanical Garden, a federally chartered organization, to the National Tropical Botanical Garden, and for other purposes (Rept. 100-1034). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 563. Resolution to authorize the Speaker to entertain motions to suspend the rules of the House on any day for the remainder of this Congress; (Rept. 100-1035). Referred to the House Calendar.

Mr. BROOKS: Committee of Conference. Conference report on H.R. 3471 (Rept. 100-1036). Ordered to be printed.

Mr. FRANK: Committee on the Judiciary. H.R. 3685. A bill to amend title 31, United States Code, to increase from $25,000 to $40,000 the maximum amount that the United States may pay in settlement of a claim against the United States made by a member of the uniformed services or by an officer or employee of the Government. (Rept. 100-1037). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 5115. A bill to amend the Immigration and Nationality Act to revise the numerical limitation and preference system for admission of independent immigrants, and for other purposes; with amendments (Rept. 100-1038). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRANK: Committee on the Judiciary. House Joint Resolution 644. Resolution granting the consent of Congress to the compact entered into between the State of North Carolina and the State of South Carolina establishing the Lake Wylie Marine Commission; with amendments (Rept. 100-1039). Referred to the House Calendar.

Mr. RODINO: Committee on the Judiciary. S. 2350. A bill to clarify the investigatory powers of the United States Congress; with amendments (Rept. 100-1040). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4939. A bill to amend the Safe Drinking Water Act to control lead in drinking water; with an amendment (Report 100-1041). Referred to the Committee of the Whole House on the State of the Union.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 5407. A bill to establish a National Commission on the Thrift Industry; with an amendment (Rept. 100-1042). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on SSA's computer modernization efforts undermined by corruption and inept management (Rept. 100-1043). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on GSA small business and small minority business subcontracting (Rept. 100-1044). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on secrecy breeds suspicion: Farm Credit Administration's selection of the Jackson Federal Land Bank receiver (Rept. 100-1045). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 1510. A bill to amend title 35, United States Code, and the National Aeronautics and Space Act of 1958, with respect to the use of inventions in outer space. (Rept. 100-51, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. THOMAS A. LUKEN (for himself and Mr. LENT):

H.R. 5442. A bill to provide the Environmental Protection Agency and the public with additional information about asbestos products; to the Committee on Energy and Commerce.

By Mr. GREEN:

H.R. 5443. A bill to modify the method by which pay for civilian employees of the Government is adjusted; to the Committee on Post Office and Civil Service.

By Mr. HEFLEY:

H.R. 5444. A bill to reestablish the National Aeronautics and Space Council, and for other purposes; to the Committee on Science, Space and Technology.

By Mr. LENT:

H.R. 5445. A bill to amend the Federal Power Act to guide the Federal Energy Regulatory Commission in the issuance of licenses to operate existing hydroelectric facilities; to the Committee on Energy and Commerce.

By Mr. RIDGE (for himself, Mr. LAGOMARSINO, Mr. CHAPMAN, Mr. DAVIS of Illinois, Mr. ACKERMAN, and Mrs. SAIKI):

H.R. 5446. A bill to establish a program of demonstration grants to local educational agencies to encourage reduction of student to teacher ratios in the primary grades; to the Committee on Education and Labor.

By Mr. UPTON:

H.R. 5447. A bill to amend the Internal Revenue Code of 1986 to provide that the one-time exclusion of gain from sale of a principal residence shall not be precluded because the taxpayer's spouse, before becoming married to the taxpayer, elected the exclusion; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 5448. A bill to modify the boundary of the Sleeping Bear Dunes National Lakeshore, to remove the authority of the Secretary of the Interior to construct and administer scenic roads as part of such National Lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DAVIS of Illinois:

H. Con. Res. 382. Concurrent resolution concerning the policy of the United States regarding the use of chemical weapons; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself, Mr. FAUNTROY, Mr. CROCKETT, Mr. YATRON, Mr. GEJDENSON, Mr. OBERSTAR, Mr. GRAY of Pennsylvania, Mr. TOWNS, Mr. OWENS of New York, Mr. GILMAN, and Mr. KEMP):

H. Con. Res. 383. Concurrent resolution expressing the sense of the Congress regarding the restoration of democracy to Haiti and on conditions for the resumption of United States assistance to that country; to the Committee on Foreign Affairs.

By Mr. TRAFICANT:

H. Con. Res. 384. Concurrent resolution expressing the sense of the Congress that the National Aeronautics and Space Administration should develop and maintain a crew rescue capability in support of the space station *Freedom;* to the Committee on Science, Space and Technology.

By Mr. EDWARDS of California:

H. Res. 562. Resolution authorizing the use of depositions in connection with an impeachment inquiry of the Committee on the Judiciary; considered and agreed to.

By Mr. DE LA GARZA

H. Res. 564. Resolution providing for concurring in the Senate amendment to H.R. 4345, to amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes, with an amendment; considered and proceedings postponed.

By Mr. UDALL:

H. Res. 565. Resolution agreeing to the conference requested by the Senate on the bill H.R. 5261; considered and proceedings postponed.

By Mr. VENTO:

H. Res. 566. Resolution amending the Senate amendment to the bill H.R. 900; considered and proceedings postponed.

By Mr. MILLER of California:

H. Res. 567. Resolution disposing of Senate amendments to the bill H.R. 2772; considered and proceedings postponed.

MEMORIALS

Under clause 4 of rule XXII,

472. The SPEAKER presented a memorial of the General Assembly of the State of California, relative to the resettlement of Indochinese refugees; jointly, to the Committees on Foreign Affairs and the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 458: Mr. DIOGUARDI, Mrs. ROUKEMA, and Mr. VENTO.

H.R. 1635: Mr. BURTON of Indiana.

H.R. 1794: Mr. CARR, Mr. MARKEY, Mr. CROCKETT, Mr. LOWRY of Washington, Mr. HORTON, and Mr. HAYES of Illinois.

H.R. 2151: Mr. BORSKI and Mr. CLARKE.

H.R. 2212: Ms. SLAUGHTER of New York.

H.R. 2546: Mr. SPRATT, Mr. CALLAHAN, and Mr. SPENCE.

H.R. 3199: Mr. BOEHLERT.

H.R. 3374: Mr. DAVIS of Michigan.

H.R. 3736: Mr. BEREUTER.

H.R. 4302: Mr. PICKETT, Mr. WATKINS, Mr. TAUZIN, Mr. DERRICK, Mr. STRATTON, Mr. PARRIS, and Mr. STENHOLM.

H.R. 4743: Mr. BEREUTER.

H.R. 4813: Mr. BENNETT.

H.R. 4847: Mr. SLATTERY.

H.R. 4879: Mr. LOTT and Mr. ANNUNZIO.

H.R. 5033: Mr. BEILENSON.

H.R. 5051: Mr. SMITH of Florida.

H.R. 5115: Mr. HUGHES and Mrs. MORELLA.

H.R. 5154: Mr. BURTON of Indiana and Mr. YATES.

H.R. 5172: Mr. CROCKETT.

H.R. 5198: Mr. DONNELLY.

H.R. 5212: Mr. TAUZIN.

H.R. 5226: Mr. MARTINEZ, Mr. LAGOMARSINO, Mr. LIPINSKI, Mr. FAZIO, Mr. BONIOR of Michigan, Ms. KAPTUR, and Mr. JONTZ.

H.R. 5229: Mr. FOGLIETTA and Mr. GORDON.

H.R. 5341: Mr. LAGOMARSINO, Mr. OLIN, Mr. LEWIS of California, Mr. FIELDS and Mr. PORTER.

H.R. 5351: Mr. EMERSON.

H.R. 5352: Mr. EMERSON.

H.R. 5353: Mr. EMERSON.

H.R. 5354: Mr. EMERSON.

H.R. 5355: Mr. EMERSON.

H.R. 5356: Mr. EMERSON.

H.R. 5357: Mr. EMERSON.

H.R. 5358: Mr. EMERSON.

H.R. 5359: Mr. EMERSON.

H.R. 5360: Mr. EMERSON.

H.R. 5361: Mr. EMERSON.

H.R. 5362: Mr. EMERSON.

H.R. 5363: Mr. EMERSON.

H.R. 5364: Mr. EMERSON.

H.R. 5365: Mr. EMERSON.

H.R. 5366: Mr. EMERSON.

H.R. 5374: Mr. HYDE, Mr. GINGRICH, Mr. WEBER, Mr. BROOMFIELD, Mr. DAVIS of Illinois, Mr. DELAY, and Mr. EMERSON.

H.R. 5394: Mr. HAYES of Illinois and Mr. PEPPER.

H.R. 5410: Mr. ATKINS, Mr. EVANS, Mr. DONALD E. LUKENS, Mr. STOKES, and Mr. LEATH of Texas.

H.R. 5427: Mr. HUGHES.

H.J. Res. 438: Mr. DWYER of New Jersey.

H.J. Res. 450: Mr. LEHMAN of Florida and Mr. HUTTO.

H.J. Res. 501: Mr. DWYER of New Jersey, Mr. FAUNTROY, Mr. BOSCO, Mr. DIOGUARDI, Mr. LEHMAN of Florida, Mr. HARRIS, Mr. COSTELLO, Mr. DONNELLY, Mr. PEPPER, Mr. DYMALLY, Mr. SOLARZ, and Mr. HYDE.

H.J. Res. 565: Mr. CLINGER, Mr. ROBINSON, Mr. KOLTER, Mr. WAXMAN, Mr. BORSKI, and Mr. KANJORSKI.

H.J. Res. 639: Mr. MOLLOHAN, Mr. AKAKA, and Mr. HOYER.

H.J. Res. 653: Mr. MATSUI, Mr. SCHAEFER, Mr. BERMAN, Mr. FASCELL, Mr. MOLLOHAN, Mr. MARKEY, and Mr. WEISS.

H.J. Res. 662: Mr. KASICH.

H. Con. Res. 115: Mrs. KENNELLY, Mr. SKEEN, Mr. SHAW, Mr. BLILEY, Mr. ENGLISH, Mr. HILER, Mr. BOLAND, Mr. BEREUTER, Mr. LIVINGSTON, Mr. MADIGAN, Mr. WEBER, Mr. NIELSON of Utah, Mr. STUMP, Mr. YOUNG of Alaska, Mr. MARTINEZ, and Mr. THOMAS of California.

H. Con. Res. 333: Mr. CARPER.

H. Con. Res. 358: Mr. CLEMENT and Mr. ACKERMAN.

H. Con. Res. 362: Mr. MARTINEZ.

H. Res. 471: Mr. EARLY.

H. Res. 487: Ms. SLAUGHTER of New York.

H. Res. 546: Mr. GONZALEZ, Mr. LEWIS of California, Mr. MICHEL, Mr. JONES of Tennessee, Mr. ORTIZ, and Mr. SENSENBRENNER.